

**U.S Rep. Louie Gohmert (TX):** Washington bureaucrats in cubicles should not be deciding the fate of our waterways, nor should they be allowed to completely and arbitrarily control the economic fate of landowners even to the point of ending their ability to make a living. Unelected bureaucrats have, for years, been enviously dreaming of the day they could control American landowners' property by the backdoor methods of completely controlling everything involving water on or near the land. Repealing the Obama Administration's WOTUS Rule is essential in getting the federal government out of everyday farming operations. It is neither right nor fair to subject producers and landowners to jurisdictional protocols and extraordinary levels of compliance charges. Today the EPA took a giant step forward in safeguarding the water rights of hard-working Americans and ending the federal power grab the Obama Administration engineered. It is a victory for those who love liberty and something called private property."

**U.S. Rep. Andy Biggs (AZ):** I applaud Administrator Pruitt for his proposal to repeal the Waters of the United States (WOTUS) Rule, which was one of the most onerous rules from the Obama administration. WOTUS was opposed by over 200 organizations and local communities and would have had devastating effects on western states, including Arizona. This action provides another example that the Trump administration favors freedom and prosperity for our economy over regulatory outreach, and we join the administration in their efforts."

**U.S. Rep. Doug Collins (GA):** "Northeast Georgia farmers, ranchers, and small businesses are natural conservationists who have been overburdened by the illogical Waters of the United States regulation. I applaud the Army Corps of Engineers and Environmental Protection Agency for their move to repeal the WOTUS rule in favor of statutes that actually serve our communities and steward their natural resources wisely."

**U.S. Rep. Markwayne Mullin (OK):** "Since the previous administration put the WOTUS Rule in place, I have been fighting tooth and nail to overturn it. The harmful effects it has on our farmers, ranchers, and small businesses are felt nationwide. Moreover, the WOTUS Rule allowed Washington bureaucrats to regulate the streams and creeks in the backyards of Oklahomans, when in reality these bureaucrats don't know the first thing about a backyard like mine." "The rule proposed today by the EPA and Army Corps of Engineers delivers the long overdue relief from this unlawful water grab that our farmers and ranchers desperately need. I'm grateful to EPA Administrator Scott Pruitt for acting swiftly to repeal this misguided rule."

**U.S Rep. Kristi Noem (SD):** “Under the Obama-era WOTUS rule, treating your lawn for mosquitos, putting up a fence in your backyard or spraying your crops could become federally regulated activities that carry substantial fines if violations occur – knowingly or unknowingly. The Trump administration is right to propose a repeal.”

**U.S Rep. Liz Cheney (WY):** “The Clean Water Rule was a power grab by the Obama Administration that attempted to expand federal control and regulations well beyond the initial scope of Waters of the U.S. The rule threatened the loss of precious resources for hardworking ranchers and farmers in Wyoming, and if left unchecked, would have devastated our rural economy. I am pleased to see EPA Administrator Pruitt and the Army Corps of Engineers taking these steps to return power to the states and provide them with regulatory certainty. I also remain committed to working in Congress towards a full repeal of burdensome regulations imposed by the previous administration.”

**House Agriculture Committee Chairman K. Michael Conaway (TX-11):** “WOTUS has never been about clean water, it was about feeding the Obama EPA’s insatiable appetite for power. Well that ends now. Today’s EPA announcement is an important first step to getting the federal government out of America’s backyards, fields and ditches and restoring certainty and integrity to our regulatory process. But our work isn’t done. As the case of California farmer John Duarte clearly highlights, the Corps and DOJ also need to re-evaluate and revise their enforcement of the Clean Water Act and WOTUS to ensure we protect our farmers and ranchers from onerous fines and penalties that threaten their way of life. I have confidence this administration will get the policy right and allow farmers and ranchers to be the capable stewards of the land they’ve always been.”

**U.S. Rep. Bob Gibbs (OH):** “I applaud Administrator Pruitt’s announcement to withdraw the Obama-era Waters of the United States rule, which expanded federal authority at the expense of the states and eroded private property rights. The EPA should not treat farmers, ranchers, homebuilders, local governments, or state environmental agencies as adversaries but rather collaborators in drafting a new WOTUS rule. American farmers who feed the world are among those most concerned with protecting our environment. The next WOTUS rule should take their opinions and concerns into account and I look forward to working with Administrator Pruitt to craft a reasonable rule that protects the environment and private property rights at the same time.”

## **Industry**

**U.S. Chamber of Commerce Senior Vice President for Environment, Technology, and Regulatory Affairs Bill Kovacs:** “We commend EPA for taking an analytical approach to repealing and fixing the misguided WOTUS rule. Now, all stakeholders will have an opportunity to provide public comment, and the agency will have the proper time to analyze the input and unwind a confusing rule that impacted America’s businesses, farmers, and land owners. The final WOTUS rule issued by the last administration was unworkable, a fact acknowledged by courts around the country, and amounted to a massive grab of regulatory authority by an EPA that was overreaching. We look forward to working with Administrator Pruitt and his team to craft a rule that protects public health and the environment, while giving clarity and certainty to our nation’s farmers and job creators.”

**National Farmers Union (NFU) President Roger Johnson:** “Family farmers and ranchers are the stewards of our land, and they understand the importance of clean water today and for future generations. Farmers also need regulatory certainty. NFU was engaged in the WOTUS rulemaking process to ensure family farmers ended up with an appropriate and definitive final rule, yet opposed the final WOTUS rule because it was ultimately an expansion of the Clean Water Act’s jurisdiction. Any new rule should ensure the agriculture community can conduct its business free from fear of undue regulatory interference and without sacrificing the agencies’ ability to protect the United States’ water resources.”

**Texas farmer Wesley Spurlock, president of the National Corn Growers**

**Association:** “The goal of the Clean Water Act is to restore and maintain the integrity of the nation’s waters. The 2015 rule moved us further away from that goal. Repealing it is an important first step toward providing farmers the certainty and clarity we have long desired. We are thankful this Administration is working to draw clear lines in terms of what is and what is not jurisdictional under the Clean Water Act. In doing so, they will enable farmers to implement best management practices such as grass waterways and buffer strips without the burden of bureaucratic red tape or fear of legal action. These types of land improvements have enormous water quality benefits, such as reducing sediment and nutrient runoff—a win for farmers and the environment. Government should be making these actions easier, not more difficult. We salute the EPA and Army Corps of Engineers for their efforts. We stand committed to working with these agencies as they develop a new rule that defines jurisdictional boundaries in clear terms that are inclusive of the realities of farming.”

**National Rural Electric Cooperative Association (NRECA) CEO Jim Matheson:** “We appreciate EPA Administrator Pruitt recognizing the need to revisit this overbearing

regulation and avoid needless increased costs for millions of electric co-op consumers. As written, the rule would dramatically expand federal oversight of features that only hold water after a rain. This would have increased costs and impaired the ability of co-ops to build and maintain power lines. We encourage EPA and the Army Corps of Engineers to propose a new common-sense rule that recognizes the role of the states, protects the environment, and allows co-ops to continue providing affordable and reliable power.”

**Zippy Duvall, president, American Farm Bureau Federation:** “Farmers and ranchers across this country are cheering EPA’s proposal today to ditch its flawed Waters of the U.S. rule. We know the importance of clean water, and farmers and ranchers work hard to protect our natural resources every day. But this rule was never really about clean water. It was a federal land grab designed to put a straightjacket on farming and private businesses across this nation. That’s why our federal courts blocked it from going into effect for the past two years. Today’s announcement shows EPA Administrator Pruitt recognizes the WOTUS rule for what it is—an illegal and dangerous mistake that needs to be corrected. Farm Bureau looks forward to supporting Administrator Pruitt’s proposal. EPA should ditch this rule once and for all, go back to the drawing board, and write a new rule that protects water quality without trampling the rights of businesses and the states.”

**National Mining Association (NMA) President and CEO Hal Quinn:** “This sets in motion a welcome correction to a deeply problematic regulation that ignored the careful balance that Congress struck between federal and state water regulation and Constitutional limits on federal authority. Under the guise of clarifying federal Clean Water Act jurisdiction, the WOTUS rule impermissibly expanded federal jurisdiction to virtually any standing body of water -- from roadside drainage ditches to local green energy projects. We look forward to working with the administration as it replaces the WOTUS rule with environmentally responsible policies that provide regulatory clarity for businesses and proper recognition of state authority to manage water quality as Congress intended.”

**Edison Electric Institute (EEI) President Tom Kuhn:** “EEI’s member companies are committed to a healthy environment and to a clean and affordable energy future. By rescinding the problematic Waters of the United States (WOTUS) rule, EPA Administrator Pruitt and the Army Corps of Engineers have taken an important step to reconsider a rule that, if left unchanged, would have triggered substantial new regulatory requirements for critical electric company operations, creating substantial compliance costs. As EEI and allied stakeholders consistently have noted through comments and through our participation in litigation challenging the current WOTUS rule, our industry



supports a new rulemaking that more clearly and narrowly defines which waterbodies are subject to federal jurisdiction, and enhances opportunities to streamline energy infrastructure permitting. We also thank EPA and the Army Corps of Engineers for seeking more input from the states on the rulemaking, and look forward to working with their staffs as they review and revise the regulations.”

**National Association of State Departments of Agriculture (NASDA) President and Louisiana Commissioner of Agriculture Michael G. Strain:** “The EPA has sided with state and local governments, farmers, landowners, and small businesses in their decision to rescind this burdensome regulation. The 2015 rule lacked clarity, and was fraught with procedural concerns and violations of congressional intent, making it necessary to start over with a new rule that protects clean water and respects state regulatory authority. State laws and programs partner with EPA, farmers and ranchers, and local entities to protect clean water every day. We look forward to working cooperatively with the EPA in developing – and eventually implementing – a new rule.”

**Environmental Council of the States (ECOS) President John Linc Stine, Commissioner of the Minnesota Pollution Control Agency:** “Today’s proposed rule is a key step in creating an opportunity to develop a regulatory approach to defining waters of the United States in a fully collaborative fashion. We look forward to a productive, results-oriented conversation among states, EPA, the Army Corps of Engineers, and all stakeholders to provide greater regulatory certainty and clarity, and to ensure that waters are protected by an appropriate allocation of state and federal laws, regulations, programs, and resources.”

**National Stripper Well Association Chairwoman Darlene Wallace:** “Today’s actions by President Trump in repealing the deeply misguided Waters of the United States rule implemented by the last administration gives NSWA membership cause to celebrate the President keeping his promises and working to protect small businesses and oil and gas producers. The terrible impacts facing small oil and gas producers as a result of the over expansive and unnecessary regulation proposed by the previous administration are wiped away putting another promise kept and another sign that relief for American businesses is on the way. NSWA also wants to thank Administrator Pruitt and all the staff at EPA for their hard work in delivering this relief for the American workers.”

**American Exploration & Mining Association Executive Director Laura Skaer:** “Our members are greatly encouraged to see the Trump administration undo this unnecessary rule and return states’ authority over water regulation and regulatory

certainty that is crucial to a prosperous American mining industry. Mining is ready to get back to work and grow communities. Ending this deeply flawed rule allows us to do just that.”

**National Cattlemen’s Beef Association President Craig Uden:** “This is another great step in the right direction, and the Administration deserves a great deal of credit for injecting some much-needed common sense into our nation’s environmental policies. It’s important to remember, though, that this rule isn’t dead yet. The rulemaking process continues, and NCBA will submit and solicit additional comments on behalf of America’s cattle producers so that they finally get the sanity and clarity they need on land use policy.”

**Public Lands Council President Dave Eliason:** “We applaud President Trump and Administrator Pruitt for their leadership in repealing the 2015 WOTUS rule. Ranchers in the West are already subject to an elevated level of regulatory overreach, and the WOTUS rule as written would have only made the problem worse. It is reassuring to see the steps that this administration is taking to relieve some of that regulatory burden and provide certainty for our producers.”

**National Pork Producers Council President Ken Maschhoff:** “This is great news for America’s pork producers. The WOTUS rule was a dramatic government overreach and an unprecedented expansion of federal authority over private lands. It was the product of a flawed regulatory process that lacked transparency and likely would have been used by trial lawyers and environmental activists to attack farmers. We’re extremely grateful to President Trump and EPA Administrator [Scott] Pruitt for recognizing the dire consequences this ill-advised Obama-era regulation would have had on pork producers and all of American agriculture.”

**American Petroleum Institute Upstream and Industry Operations Group Director Erik Milito:** “Today’s action by the administration will help spur U.S. job creation by providing the regulatory certainty needed to encourage investment and advance America’s energy leadership. This rule would have imposed burdensome and costly regulations, and stifled energy production with little to no environmental benefit. API member companies are committed to protecting the environment, but this rule represented a broad and unwarranted expansion of the federal government, especially when the Clean Water Act already prohibits discharges of pollutants that ultimately flow

into navigable waters. We applaud the administration's actions to rescind this harmful rule and to recognize that our industry is part of the solution in helping create American jobs, boost the economy, and protect the environment. We look forward to working with the administration on forward-looking policies that eliminate regulatory uncertainty for businesses."

John Konkus

Deputy Associate Administrator

Office of Public Affairs

Environmental Protection Agency

Cell: **Personal Phone / Ex. 6**

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**From:** Bennett, Tate  
**Sent:** Wed 6/28/2017 7:18:09 PM  
**Subject:** RE: Updated WOTUS statements

## Deliberative Process / Ex. 5

**From:** Bowman, Liz  
**Sent:** Wednesday, June 28, 2017 2:52 PM  
**To:** Konkus, John <konkus.john@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Palich, Christian <palich.christian@epa.gov>  
**Subject:** RE: Updated WOTUS statements

## Deliberative Process / Ex. 5

**From:** Konkus, John  
**Sent:** Wednesday, June 28, 2017 1:56 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Palich, Christian <palich.christian@epa.gov>  
**Subject:** Updated WOTUS statements

Below and attached are the updated WOTUS statements. Thank you.

## States

**Governor Kim Reynolds (IA):** "Waters of the United States was a significant and severe case of government overreach by the Obama administration. I want to thank

Secretary Pruitt for recognizing that WOTUS forced onerous and unnecessary burdens on Iowa's farmers and businesses. I also want to express my appreciation to the Trump administration for its continuing commitment to work with states, not against them."

**Governor Eric Holcomb (IN):** "I commend U.S. EPA Administrator Pruitt's leadership as he seeks to roll back burdensome regulations that measurably impact Hoosier families, businesses and farms. I also thank Administrator Pruitt for actively seeking state input on the reformulation of this rule so that federal officials better understand the common sense approach needed to protect the environment and Hoosier jobs. Indiana knows best how to preserve our state's waterways, and a one-size-fits-all approach from Washington disrupts the predictable regulatory climate we need for continued innovation and economic growth. Rescinding the 2015 WOTUS rule will allow Indiana's environmental regulators and industry leaders, along with state and local officials, to effectively manage the quality of water we need to support public health, recreation and business for our state."

**Governor Sam Brownback (KS):** "The Clean Water Rule was another example of bureaucrats in Washington, D.C. trying to run Kansas farms and ranches. Our state is a leader in water innovation, and Kansans have come together through community-led water preservation efforts spurred by our 50-year Water Vision. Our farmers and ranchers know best how to steward their water. We appreciate that President Trump and the EPA will now let our farmers farm and ranchers ranch."

**Governor Eric Greitens (MO):** "When we took office, we asked our farmers and ranchers what we could do to fight for them. One of the things we heard is that they needed our help to push back against Obama's Waters of the US regulations. Well, we took that message to Washington D.C. and the good news is they've heard us. They've heard that Obama's Waters of the US regulations are hurting family farmers."

**Governor Pete Ricketts (NE):** "Thank you to President Trump and Administrator Pruitt for delivering on your promise to roll back this job-killing regulation. This policy returns federal oversight of intra-state waterways to pre-2015 standards, respects the rights of private land owners and states, and provides for ample protection of clean water. Removing this threat to our state's top industries gives Nebraska the freedom to grow more opportunities for the next generation in the areas of agriculture and manufacturing."

**Steve Nelson, Common Sense Nebraska:** “Today, countless farmers, ranchers, homebuilders, manufacturers, county governments, golf courses, and small businesses are loudly celebrating the demise of EPA’s proposed WOTUS rule. For over two years, our coalition which represents the very industries who would have had to bear the brunt of this federal land grab, have worked tirelessly to stop this breathtaking assumption of authority by the federal government that flies in the face of Congressional intent, legal precedents, and even science. We want to thank the Trump Administration and EPA Administrator Pruitt specifically for now going back to the drawing board to write a new rule that actually protects water without trampling the rights of businesses and state regulatory agencies.”

**Greg Ibach, Director of the Nebraska Department of Agriculture:** “I applaud the Trump Administration and Secretary Pruitt’s announcement to walk away from the previous administration’s WOTUS rule and begin the process to develop a new rule. The expansive reach and inability to determine what water or land may fall under jurisdiction under the existing regulation puts Nebraska’s agriculture industry in jeopardy. Our farmers and ranchers have proven to be thoughtful stewards of our land and resources, and jurisdiction of those resources should be the responsibility of the states. I look forward to the development of a new rule, founded in common sense, that will support Nebraska’s ability to protect our water and land resources.”

**The Attorneys General of the States of West Virginia, Wisconsin, Alabama, Alaska, Arkansas, Georgia, Indiana, Kansas, Louisiana, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming, and the Commonwealth of Kentucky, joint statement:** “We fully support the proposed rule signed by EPA Administrator Pruitt today as a significant step in the direction of withdrawing the unlawful WOTUS Rule.”

**Alabama Attorney General Steve Marshall:** “We fully support the proposed rule signed by EPA Administrator Pruitt today as a significant step in the direction of withdrawing the unlawful WOTUS Rule. The WOTUS Rule asserts sweeping federal authority over usually dry channels, roadside ditches, and isolated streams. The Rule also asserts federal authority over land covered by water only once every one hundred years. The Rule’s broad assertion of authority unlawfully impinges on the States’ traditional role as the primary regulators of land and water resources. The WOTUS Rule is unlawful under the Clean Water Act, U.S. Supreme Court precedent, and the U.S. Constitution. Our States won a nationwide stay blocking enforcement of the rule and allowing the new administration time to work on withdrawing the Rule. We look forward

to EPA's final action withdrawing the WOTUS Rule and providing relief for our States and their citizens."

**Arkansas Attorney General Leslie Rutledge:** "The full rescindment of this unlawful rule is a big win for Arkansas landowners. WOTUS has been enjoined because of the work of attorneys general, and today's action shows a clear signal that the EPA is returning to its core mission. I look forward to working with the agency as it works to draft a new, lawful rule that protects our waters and does not harm our farmers and ranchers, who continue to be the first conservationists."

**Georgia Attorney General Chris Carr:** "This is a significant step in addressing the WOTUS Rule's sweeping assertion of authority, which unlawfully impinges on the State's traditional role as the primary regulators of land and water resources," said Attorney General Chris Carr. "We look forward to EPA's final action to withdraw the 2015 WOTUS Rule, providing relief for Georgia homeowners, farmers and other entities."

**Tennessee Attorney General Herbert Slatery:** "We fully support the action taken by EPA Administrator Pruitt. The WOTUS Rule would allow the federal government to claim regulatory authority clearly left to the states. It is unlawful under the Clean Water Act, U.S. Supreme Court precedent, and the U.S. Constitution."

**Wisconsin Attorney General Brad Schimel:** "We fully support the proposed rule signed by EPA Administrator Pruitt today as a significant step in the direction of withdrawing the unlawful WOTUS rule. The WOTUS rule asserts sweeping federal authority over usually dry channels, roadside ditches, and isolated streams. The rule also asserts federal authority over land covered by water only once every one hundred years. We look forward to EPA's final action withdrawing the WOTUS rule and providing relief for our states and their citizens."

**Ryan Quarles, Kentucky Agriculture Commissioner:** "I applaud EPA Administrator Scott Pruitt's decision to propose a repeal of the destructive Obama-era 'Waters of the United States' rule. By requiring every puddle and pond to be subject to federal regulation, WOTUS represents exactly how executive overreach from Washington can harm Kentucky farmers and all of rural America. Earlier this year, I met with Administrator Pruitt to ask him to repeal this rule, and to uphold the law in the spirit of

cooperative federalism between the national and state governments. I am proud to stand with President Trump and Administrator Pruitt as they work to undo the harmful rules and regulations enacted by the previous administration.”

**Michigan Farm Bureau Associate National Legislative Counsel John Kran:** Today’s statement from EPA and Army Corps of Engineers is a great step forward for Michigan’s farmers. The misguided WOTUS rule would have place unnecessary burden on Michigan’s farmers, requiring a whole new level of regulation on nearly all of the state’s farmland. We know the importance of clean water, and farmers work relentlessly to protect our natural resources every day, but the WOTUS rules were excessive and totally ignored the concept of navigable water as originally defined in the Clean Water Act. We’ll continue to work with the Administration, Congress and through the courts to reverse the WOTUS rule. Michigan farmers know the importance of clean water and work hard to protect the watersheds surrounding them and the Great Lakes we all enjoy as residents of our state.”

**Minnesota Farm Bureau President Kevin Paap:** “Minnesota Farm Bureau was pleased with the EPA’s proposal to ditch the 2015 rule defining “Waters of the United States” (WOTUS). It was an over regulation that created confusion and uncertainty for regulators and farmers, ranchers and others who depend on their ability to work the land. We look forward to working with EPA Administrator Pruitt to write a new rule that protects water quality without trampling the rights of businesses and the states.”

**Texas Farm Bureau President Russell Boening:** “We are thankful new leadership has taken the action needed to repeal this flawed rule,” TFB President Russell Boening said. “WOTUS created unnecessary fears and concerns for Texas landowners who questioned whether they would be allowed to plow or plant in low-lying areas due to the threat of EPA citation. We hope this repeal will put an end to EPA’s regulatory overreach and will instead allow the agency to work as it was intended by our forefathers.”

## **Senators**

**Chairman of the Senate Environment and Public Works Committee, Senator John Barrasso (WY):** “The WOTUS rule would have put backyard ponds, puddles, and prairie pot holes under Washington’s control. I applaud the Trump administration for



working to remove this indefensible regulation. I will continue to work closely with the administration as it seeks commonsense ways to keep America's water clean and safe."

**Senator Deb Fischer (NE):** "Today's announcement from the administration signals another important step toward full removal of the harmful WOTUS rule. All Nebraskans would have been affected by the far-reaching consequences of this misguided policy. I will continue to monitor the WOTUS withdrawal process to help ensure we see common-sense rulemaking that puts Nebraskans in charge of the decisions involving our state's water resources."

**Senator Steve Daines (MT):** "Today marks the beginning of restoring private property rights while protecting our environment. Out of state D.C. bureaucrats shouldn't impose regulations that hurt Montana farmers, ranchers and landowners."

**Senator Chuck Grassley (IA):** "This is great news for accountability in government. This was a bad regulation drafted under a bad process. The EPA over-reached its authority and ignored and manipulated legitimate concerns raised by the public. Farmers, land owners and builders in Iowa struggled to make sense of the regulation. Having the federal EPA and the Corps of Engineers require permits for routine land use decisions is a waste of resources that are better used enforcing existing regulations against discharging pollutants into the nation's waterways. Agencies ought to enforce the laws as Congress intended, not stretch beyond their authority to inflict unnecessary expense and red tape on law-abiding farmers and employers."

**Senator Joni Ernst (IA):** "I am pleased that the Trump administration is taking another important step toward eliminating this burdensome WOTUS rule. In Iowa, 97 percent of the land is subject to extensive overregulation by the EPA and unnecessarily hamstringing our farmers, businesses and manufacturers. All across Iowa, folks are calling for this rule to be scrapped, which is why I have led efforts in the Senate to do just that. This is good news for Iowa and rural communities across the country as we move closer to finally eliminating this overreaching rule."

**Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator Pat Roberts (KS):** "I'm pleased Administrator Pruitt and the EPA has listened to our concerns and has taken an important first step to rescind the infamous WOTUS

rule. For too long, this rule has burdened not only farmers and ranchers, but landowners of all sizes, across the country. With a rewrite of the WOTUS rule, I look forward to seeing a rule that recognizes and respects the environmental strides taken by the American farmer and rancher. I'm grateful to have an EPA that listens to and addresses the concerns of rural America, a vital segment of our economy and true stewards of our natural resources."

## **House Members**

**Speaker of the U.S. House, Paul Ryan:** "The West has finally won in the battle over the Obama administration's WOTUS rule. This regulation would have been a disaster for the West and rural communities across the country, giving Washington near-total control over water resources. The livelihoods of American farmers, ranchers, and entrepreneurs were at stake. I applaud the Trump administration for siding with American jobs and rescinding this harmful rule.

**Chairman of the House Science Committee, Rep. Lamar Smith (TX):** "Clean water is a necessity for all Americans. Today's decision by EPA and the Army Corps of Engineers to go back to the basics and build a better policy with input from local stakeholders puts the power back in the hands of the people. The Obama administration imposed heavy-handed federal regulations on virtually every private and public lake, pond and stream across the country. A full repeal of this rule will further protect private landowners and farmers from federal regulatory overreach. I look forward to a policy that actually helps protect clean water without unnecessary regulation."

**Chairman of the House Natural Resources Committee Rob Bishop (UT):** "This rule aggrandized federal bureaucrats at the expense of farmers' water and private property rights. EPA's decision to stay and now rescind WOTUS is another welcome act from the Trump Administration to return power back to the states and untangle harmful Washington excesses."

**U.S. Rep. Mike Bost (IL):** "Turning back WOTUS is a clear win for Southern Illinois' hardworking farmers, ranchers, construction workers, and manufacturers. The Obama Administration's WOTUS rule was a federal power grab of epic proportions, expanding EPA control to puddles, ditches and farmland ponds across America. That's why I have fought so hard to eliminate this misguided rule. We must be good stewards of the

environment, but we can do so without imposing crushing D.C. regulations that will put Southern Illinois' economy at risk and impact millions of rural Americans."

**U.S. Rep. Paul Gosar (AZ):** "Today's announcement is excellent news for communities throughout the country. The Obama Administration threatened the very livelihoods of farmers, ranchers, small businesses and water users when unilaterally enacting the job-killing WOTUS Rule by executive fiat. The Trump Administration has already made great strides in rolling back this unconstitutional mandate and I am thrilled to see EPA Administrator Pruitt continue that good work with today's proposed rule. Western Caucus members look forward to working closely with the administration to put a nail in the coffin of Gina McCarthy's water grab."

**U.S. Rep. Scott Tipton (CO):** "This announcement from Administrator Pruitt is welcome news. State law and priority-based systems have ensured clean, safe, and reliable water supplies for over a century in Colorado and the West. The WOTUS rule would have usurped long-held state water law and threatened access to private water rights. Western water users will now have much needed certainty while the EPA re-writes the definition of 'Waters of the United States.'"

**U.S. Rep. Dan Newhouse (WA):** "I applaud the action taken by the EPA and U.S. Army Corps of Engineers to follow up on President Trump's order to review the intrusive and overreaching Waters of the United States rule. I look forward to working with my colleagues and EPA Administrator Pruitt to replace the ill-conceived WOTUS rule with a commonsense proposal that protects clean water, as well as the water and property rights of farmers, ranchers, small businesses, and water users across the country."

**U.S. Rep. Steve Pearce (NM):** "This is great news for stronger job growth throughout New Mexico. Under the WOTUS Rule, Washington bureaucrats were given complete authority to regulate small streams along with natural and manmade ditches on lands owned by farmers, ranchers, and small businesses. This unlawful expansion of power proposed by the Obama Administration would drive up costs for landowners and cost thousands of jobs. I'm pleased to see the EPA and the Army Corps of Engineers recommit to strengthening rural economies."

**U.S. Rep. Bruce Westerman (AR):** "I am happy that the administration has listened to the concerns of those most impacted by this egregious, unconstitutional overreach by

the Environmental Protection Agency. The decision to withdraw the previous administration's WOTUS rule is a win for private property rights and will have a positive impact on farmers, ranchers, and other job creators."

**U.S. Rep. Cathy McMorris Rodgers (WA):** "WOTUS is one of the most burdensome EPA rules of the Obama Administration. You think about the impact it's had on rural communities, on our cattlemen and farmers— it's making it more and more difficult for hardworking Americans to be successful. It's something I've heard about frequently in Eastern Washington. Thank you to President Trump and his administration for taking action to ensure this rule no longer targets our rural communities."

**U.S. Rep. Tom Emmer (MN):** "I am pleased with today's actions by the Trump Administration to repeal the harmful and overly burdensome WOTUS rule. While there is still work to be done to redefine WOTUS, this step gives our nation's farmers, manufacturers and home builders greater certainty and gets the federal government out of their way. This is a welcome move that will benefit our economy today and for years to come."

**U.S. Rep. Doug Lamborn (CO):** "The previous administration used the vague language in the WOTUS Rule to harm local communities—including ranchers, farmers, small business owners. I am grateful that this new ruling will establish regulatory certainty and restore order to state and tribal water laws that should have jurisdiction over these bodies of water. I look forward to a revision of this rule that will empower local landowners instead of giving power solely to the federal government."

**U.S. Rep. Mike Johnson (LA):** "The so called 'WOTUS Rule' was a gross overreach by the Obama Administration and put mud puddles and backyard ditches under government control. Farmers and every day Americans all across the country have been subjected to new, burdensome regulations that kill jobs and further hinder the economy. Removing this rule will restore common sense to water regulation and return power back to the states and to the people."

**\*U.S. Rep. Rick Allen (GA):** "The WOTUS rule was flawed from the beginning, and I applaud EPA Administrator Scott Pruitt's action to rescind this regulation. WOTUS was yet another attempt by the previous administration to undermine the rights of states, local governments and landowners by allowing the federal government to regulate

backyard streams and puddles. Our farmers work each and every day to care for our land and preserve it for generations to come. I am happy to see the Trump Administration empowering America's farmers and taking another step towards removing the overreaching hand of government from their everyday lives. In February, I introduced H.R. 1105, legislation to repeal the WOTUS rule and now that the EPA has rescinded the rule, Congress must codify this language to ensure WOTUS can never become a reality under any future administrations."

**\*U.S. Rep. Doug LaMalfa (CA):** "The job-killing WOTUS Rule was one of the most egregious regulations implemented by the Obama Administration and former EPA Administrator Gina McCarthy. The repeal of this mandate is nothing short of a victory for private property rights across the country. Many in California's first district have expressed their frustrations with this rule, such as California farmer John Duarte, who faces millions of dollars in fines under this rule – simply for plowing his fields. We have more work to be done, but I am thankful President Trump and EPA Administrator Scott Pruitt have shown a commitment to fighting this type of over-burdensome regulation that was indicative of the previous administration's power grabs."

**U.S. Rep. Raul Labrador (ID):** I applaud the Trump administration for continuing to roll back excessive regulations that are harming Idaho's businesses and communities. I strongly opposed the previous administration's 'WOTUS' rule and I worked with my colleagues on a legislative fix. Regulatory reform is critical to Idaho's economy, and I appreciate the administration for continuing to show leadership on these types of issues."

**U.S. Rep. Martha McSally (AZ):** "WOTUS is a sweeping regulation written by unelected bureaucrats that would give the EPA jurisdiction over any type of body of water on private land—lakes, ponds, creeks, and even desert washes. I have heard from countless small businesses, farmers, and ranchers that this rule prevents them from doing their job, which is why I led dozens of my colleagues in Congress in writing to the Administration in February urging the President to reverse this rule for the sake of Southern Arizona and communities throughout the United States. I am pleased with the EPA's decision to repeal the harmful WOTUS rule—and I know that Americans across the country are relieved by this news."

**U.S. Rep. Lee Abraham (LA):** "I represent one of the largest row crop districts in the nation, and nearly every farmer I talk to wants this rule repealed. As an active farmer myself, I understand and share their frustrations with WOTUS. Today's news is a

welcomed relief for farmers around this country, and I thank President Trump and Administrator Pruitt for the actions they've taken so far to repeal this terrible rule."

**U.S. Rep. Roger Marshall (KS):** "I commend and thank the Trump Administration for their decisive and effective actions to repeal the misguided Waters of the United States rule. Kansas farmers, ranchers, businesses and even municipalities know all too well, WOTUS dramatically expanded the reach of the federal government with minimal improvements in water quality. Today's announcement serves as a tremendous relief to Kansans and provides the regulatory certainty we need to grow. This is yet another exciting step in fulfilling this Administration and Congress' promise to return government to its proper role."

**U.S Rep. Louie Gohmert (TX):** Washington bureaucrats in cubicles should not be deciding the fate of our waterways, nor should they be allowed to completely and arbitrarily control the economic fate of landowners even to the point of ending their ability to make a living. Unelected bureaucrats have, for years, been enviously dreaming of the day they could control American landowners' property by the backdoor methods of completely controlling everything involving water on or near the land. Repealing the Obama Administration's WOTUS Rule is essential in getting the federal government out of everyday farming operations. It is neither right nor fair to subject producers and landowners to jurisdictional protocols and extraordinary levels of compliance charges. Today the EPA took a giant step forward in safeguarding the water rights of hard-working Americans and ending the federal power grab the Obama Administration engineered. It is a victory for those who love liberty and something called private property."

**U.S. Rep. Andy Biggs (AZ):** I applaud Administrator Pruitt for his proposal to repeal the Waters of the United States (WOTUS) Rule, which was one of the most onerous rules from the Obama administration. WOTUS was opposed by over 200 organizations and local communities and would have had devastating effects on western states, including Arizona. This action provides another example that the Trump administration favors freedom and prosperity for our economy over regulatory outreach, and we join the administration in their efforts."

**U.S. Rep. Doug Collins (GA):** "Northeast Georgia farmers, ranchers, and small businesses are natural conservationists who have been overburdened by the illogical Waters of the United States regulation. I applaud the Army Corps of Engineers and Environmental Protection Agency for their move to repeal the WOTUS rule in favor of statutes that actually serve our communities and steward their natural resources wisely."

**U.S. Rep. Markwayne Mullin (OK):** “Since the previous administration put the WOTUS Rule in place, I have been fighting tooth and nail to overturn it. The harmful effects it has on our farmers, ranchers, and small businesses are felt nationwide. Moreover, the WOTUS Rule allowed Washington bureaucrats to regulate the streams and creeks in the backyards of Oklahomans, when in reality these bureaucrats don’t know the first thing about a backyard like mine.” “The rule proposed today by the EPA and Army Corps of Engineers delivers the long overdue relief from this unlawful water grab that our farmers and ranchers desperately need. I’m grateful to EPA Administrator Scott Pruitt for acting swiftly to repeal this misguided rule.”

**U.S Rep. Kristi Noem (SD):** “Under the Obama-era WOTUS rule, treating your lawn for mosquitos, putting up a fence in your backyard or spraying your crops could become federally regulated activities that carry substantial fines if violations occur – knowingly or unknowingly. The Trump administration is right to propose a repeal.”

**U.S Rep. Liz Cheney (WY):** “The Clean Water Rule was a power grab by the Obama Administration that attempted to expand federal control and regulations well beyond the initial scope of Waters of the U.S. The rule threatened the loss of precious resources for hardworking ranchers and farmers in Wyoming, and if left unchecked, would have devastated our rural economy. I am pleased to see EPA Administrator Pruitt and the Army Corps of Engineers taking these steps to return power to the states and provide them with regulatory certainty. I also remain committed to working in Congress towards a full repeal of burdensome regulations imposed by the previous administration.”

**House Agriculture Committee Chairman K. Michael Conaway (TX-11):** “WOTUS has never been about clean water, it was about feeding the Obama EPA’s insatiable appetite for power. Well that ends now. Today’s EPA announcement is an important first step to getting the federal government out of America’s backyards, fields and ditches and restoring certainty and integrity to our regulatory process. But our work isn’t done. As the case of California farmer John Duarte clearly highlights, the Corps and DOJ also need to re-evaluate and revise their enforcement of the Clean Water Act and WOTUS to ensure we protect our farmers and ranchers from onerous fines and penalties that threaten their way of life. I have confidence this administration will get the policy right and allow farmers and ranchers to be the capable stewards of the land they’ve always been.”

**U.S. Rep. Bob Gibbs (OH):** “I applaud Administrator Pruitt’s announcement to withdraw the Obama-era Waters of the United States rule, which expanded federal authority at the expense of the states and eroded private property rights. The EPA should not treat farmers, ranchers, homebuilders, local governments, or state environmental agencies as adversaries but rather collaborators in drafting a new WOTUS rule. American farmers who feed the world are among those most concerned with protecting our environment. The next WOTUS rule should take their opinions and concerns into account and I look forward to working with Administrator Pruitt to craft a reasonable rule that protects the environment and private property rights at the same time.”

## **Industry**

**U.S. Chamber of Commerce Senior Vice President for Environment, Technology, and Regulatory Affairs Bill Kovacs:** “We commend EPA for taking an analytical approach to repealing and fixing the misguided WOTUS rule. Now, all stakeholders will have an opportunity to provide public comment, and the agency will have the proper time to analyze the input and unwind a confusing rule that impacted America’s businesses, farmers, and land owners. The final WOTUS rule issued by the last administration was unworkable, a fact acknowledged by courts around the country, and amounted to a massive grab of regulatory authority by an EPA that was overreaching. We look forward to working with Administrator Pruitt and his team to craft a rule that protects public health and the environment, while giving clarity and certainty to our nation’s farmers and job creators.”

**National Farmers Union (NFU) President Roger Johnson:** “Family farmers and ranchers are the stewards of our land, and they understand the importance of clean water today and for future generations. Farmers also need regulatory certainty. NFU was engaged in the WOTUS rulemaking process to ensure family farmers ended up with an appropriate and definitive final rule, yet opposed the final WOTUS rule because it was ultimately an expansion of the Clean Water Act’s jurisdiction. Any new rule should ensure the agriculture community can conduct its business free from fear of undue regulatory interference and without sacrificing the agencies’ ability to protect the United States’ water resources.”

**Texas farmer Wesley Spurlock, president of the National Corn Growers Association:** “The goal of the Clean Water Act is to restore and maintain the integrity of the nation’s waters. The 2015 rule moved us further away from that goal. Repealing it is an important first step toward providing farmers the certainty and clarity we have long



desired. We are thankful this Administration is working to draw clear lines in terms of what is and what is not jurisdictional under the Clean Water Act. In doing so, they will enable farmers to implement best management practices such as grass waterways and buffer strips without the burden of bureaucratic red tape or fear of legal action. These types of land improvements have enormous water quality benefits, such as reducing sediment and nutrient runoff—a win for farmers and the environment. Government should be making these actions easier, not more difficult. We salute the EPA and Army Corps of Engineers for their efforts. We stand committed to working with these agencies as they develop a new rule that defines jurisdictional boundaries in clear terms that are inclusive of the realities of farming.”

**National Rural Electric Cooperative Association (NRECA) CEO Jim Matheson:** “We appreciate EPA Administrator Pruitt recognizing the need to revisit this overbearing regulation and avoid needless increased costs for millions of electric co-op consumers. As written, the rule would dramatically expand federal oversight of features that only hold water after a rain. This would have increased costs and impaired the ability of co-ops to build and maintain power lines. We encourage EPA and the Army Corps of Engineers to propose a new common-sense rule that recognizes the role of the states, protects the environment, and allows co-ops to continue providing affordable and reliable power.”

**Zippy Duvall, president, American Farm Bureau Federation:** “Farmers and ranchers across this country are cheering EPA’s proposal today to ditch its flawed Waters of the U.S. rule. We know the importance of clean water, and farmers and ranchers work hard to protect our natural resources every day. But this rule was never really about clean water. It was a federal land grab designed to put a straightjacket on farming and private businesses across this nation. That’s why our federal courts blocked it from going into effect for the past two years. Today’s announcement shows EPA Administrator Pruitt recognizes the WOTUS rule for what it is—an illegal and dangerous mistake that needs to be corrected. Farm Bureau looks forward to supporting Administrator Pruitt’s proposal. EPA should ditch this rule once and for all, go back to the drawing board, and write a new rule that protects water quality without trampling the rights of businesses and the states.”

**National Mining Association (NMA) President and CEO Hal Quinn:** “This sets in motion a welcome correction to a deeply problematic regulation that ignored the careful balance that Congress struck between federal and state water regulation and Constitutional limits on federal authority. Under the guise of clarifying federal Clean Water Act jurisdiction, the WOTUS rule impermissibly expanded federal jurisdiction to virtually any standing body of water -- from roadside drainage ditches to local green

energy projects. We look forward to working with the administration as it replaces the WOTUS rule with environmentally responsible policies that provide regulatory clarity for businesses and proper recognition of state authority to manage water quality as Congress intended.”

**Edison Electric Institute (EEI) President Tom Kuhn:** “EEI’s member companies are committed to a healthy environment and to a clean and affordable energy future. By rescinding the problematic Waters of the United States (WOTUS) rule, EPA Administrator Pruitt and the Army Corps of Engineers have taken an important step to reconsider a rule that, if left unchanged, would have triggered substantial new regulatory requirements for critical electric company operations, creating substantial compliance costs. As EEI and allied stakeholders consistently have noted through comments and through our participation in litigation challenging the current WOTUS rule, our industry supports a new rulemaking that more clearly and narrowly defines which waterbodies are subject to federal jurisdiction, and enhances opportunities to streamline energy infrastructure permitting. We also thank EPA and the Army Corps of Engineers for seeking more input from the states on the rulemaking, and look forward to working with their staffs as they review and revise the regulations.”

**National Association of State Departments of Agriculture (NASDA) President and Louisiana Commissioner of Agriculture Michael G. Strain:** “The EPA has sided with state and local governments, farmers, landowners, and small businesses in their decision to rescind this burdensome regulation. The 2015 rule lacked clarity, and was fraught with procedural concerns and violations of congressional intent, making it necessary to start over with a new rule that protects clean water and respects state regulatory authority. State laws and programs partner with EPA, farmers and ranchers, and local entities to protect clean water every day. We look forward to working cooperatively with the EPA in developing – and eventually implementing – a new rule.”

**Environmental Council of the States (ECOS) President John Linc Stine, Commissioner of the Minnesota Pollution Control Agency:** “Today’s proposed rule is a key step in creating an opportunity to develop a regulatory approach to defining waters of the United States in a fully collaborative fashion. We look forward to a productive, results-oriented conversation among states, EPA, the Army Corps of Engineers, and all stakeholders to provide greater regulatory certainty and clarity, and to ensure that waters are protected by an appropriate allocation of state and federal laws, regulations, programs, and resources.”

**National Stripper Well Association Chairwoman Darlene Wallace:** "Today's actions by President Trump in repealing the deeply misguided Waters of the United States rule implemented by the last administration gives NSWA membership cause to celebrate the President keeping his promises and working to protect small businesses and oil and gas producers. The terrible impacts facing small oil and gas producers as a result of the over expansive and unnecessary regulation proposed by the previous administration are wiped away putting another promise kept and another sign that relief for American businesses is on the way. NSWA also wants to thank Administrator Pruitt and all the staff at EPA for their hard work in delivering this relief for the American workers."

**American Exploration & Mining Association Executive Director Laura Skaer:** "Our members are greatly encouraged to see the Trump administration undo this unnecessary rule and return states' authority over water regulation and regulatory certainty that is crucial to a prosperous American mining industry. Mining is ready to get back to work and grow communities. Ending this deeply flawed rule allows us to do just that."

**National Cattlemen's Beef Association President Craig Uden:** "This is another great step in the right direction, and the Administration deserves a great deal of credit for injecting some much-needed common sense into our nation's environmental policies. It's important to remember, though, that this rule isn't dead yet. The rulemaking process continues, and NCBA will submit and solicit additional comments on behalf of America's cattle producers so that they finally get the sanity and clarity they need on land use policy."

**Public Lands Council President Dave Eliason:** "We applaud President Trump and Administrator Pruitt for their leadership in repealing the 2015 WOTUS rule. Ranchers in the West are already subject to an elevated level of regulatory overreach, and the WOTUS rule as written would have only made the problem worse. It is reassuring to see the steps that this administration is taking to relieve some of that regulatory burden and provide certainty for our producers."

**National Pork Producers Council President Ken Maschhoff:** "This is great news for America's pork producers. The WOTUS rule was a dramatic government overreach and an unprecedented expansion of federal authority over private lands. It was the product of a flawed regulatory process that lacked transparency and likely would have been used by trial lawyers and environmental activists to attack farmers. We're extremely grateful to President Trump and EPA Administrator [Scott] Pruitt for recognizing the dire

consequences this ill-advised Obama-era regulation would have had on pork producers and all of American agriculture.”

**American Petroleum Institute Upstream and Industry Operations Group Director**

**Erik Milito:** “Today’s action by the administration will help spur U.S. job creation by providing the regulatory certainty needed to encourage investment and advance America’s energy leadership. This rule would have imposed burdensome and costly regulations, and stifled energy production with little to no environmental benefit. API member companies are committed to protecting the environment, but this rule represented a broad and unwarranted expansion of the federal government, especially when the Clean Water Act already prohibits discharges of pollutants that ultimately flow into navigable waters. We applaud the administration’s actions to rescind this harmful rule and to recognize that our industry is part of the solution in helping create American jobs, boost the economy, and protect the environment. We look forward to working with the administration on forward-looking policies that eliminate regulatory uncertainty for businesses.”

John Konkus

Deputy Associate Administrator

Office of Public Affairs

Environmental Protection Agency

Cell: Personal Phone / Ex. 6

**To:** Hupp, Millan[hupp.millan@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/28/2017 5:12:11 PM  
**Subject:** FW: July and August Travel  
DRAFT Clean Travel Plan 6.22.17.docx

**From:** Shimmin, Kaitlyn  
**Sent:** Wednesday, June 28, 2017 9:07 AM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** RE: July and August Travel

This is the most updated one that I have. Think there are a few edits from yesterday that have not been changed.

**Kaitlyn Shimmin**

*Special Assistant Congressional and Intergovernmental Affairs*

*Office of the Administrator*

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., N.W.

Washington, D.C. 20460

O: (202) 564-4108

C: Personal Phone / Ex. 6

[Shimmin.Kaitlyn@epa.gov](mailto:Shimmin.Kaitlyn@epa.gov)

**From:** Bennett, Tate  
**Sent:** Tuesday, June 27, 2017 9:37 PM  
**To:** Shimmin, Kaitlyn <[shimmin.kaitlyn@epa.gov](mailto:shimmin.kaitlyn@epa.gov)>  
**Subject:** Fwd: July and August Travel

Hey! Is there an updated version like the one used today?

Begin forwarded message:

**From:** "Hupp, Millan" <[hupp.millan@epa.gov](mailto:hupp.millan@epa.gov)>  
**Date:** June 26, 2017 at 7:13:19 AM EDT  
**To:** "Perrotta, Pasquale" <[Perrotta.Pasquale@epa.gov](mailto:Perrotta.Pasquale@epa.gov)>  
**Cc:** "Caldwell, James" <[Caldwell.James@epa.gov](mailto:Caldwell.James@epa.gov)>, "Davis, Gail" <[Davis.Gail@epa.gov](mailto:Davis.Gail@epa.gov)>, "McMurray, Forrest" <[mcmurray.forrest@epa.gov](mailto:mcmurray.forrest@epa.gov)>, "Chmielewski, Kevin" <[chmielewski.kevin@epa.gov](mailto:chmielewski.kevin@epa.gov)>, "Morris, Madeline" <[morris.madeline@epa.gov](mailto:morris.madeline@epa.gov)>, "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Subject: Re: July and August Travel**

We will have travel finalized for July 5 - 7 this morning. More updates to come regarding August as well.

Sent from my iPhone

On Jun 25, 2017, at 3:33 PM, Perrotta, Pasquale <[Perrotta.Pasquale@epa.gov](mailto:Perrotta.Pasquale@epa.gov)> wrote:

Jim

Let's plan this tomorrow ok?

V/r,

Nino Perrotta | Acting Special Agent in Charge

U.S. Environmental Protection Agency |

Protective Service Detail |

[Perrotta.Pasquale@epa.gov](mailto:Perrotta.Pasquale@epa.gov) | [www.epa.gov](http://www.epa.gov)

C: **Personal Phone / Ex. 6**



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On Jun 21, 2017, at 5:02 PM, Hupp, Millan <[hupp.millan@epa.gov](mailto:hupp.millan@epa.gov)> wrote:

***Please note that two travel dates were added below – August 8<sup>th</sup> and August 12 – 21.***

**Deliberative Process / Ex. 5**

## **Deliberative Process / Ex. 5**



## Deliberative Process / Ex. 5

**From:** Hupp, Millan

**Sent:** Monday, June 19, 2017 2:30 PM

**To:** Caldwell, James <[Caldwell.James@epa.gov](mailto:Caldwell.James@epa.gov)>; Davis, Gail  
<[Davis.Gail@epa.gov](mailto:Davis.Gail@epa.gov)>

**Cc:** Perrotta, Pasquale <[Perrotta.Pasquale@epa.gov](mailto:Perrotta.Pasquale@epa.gov)>; McMurray, Forrest  
<[mcmurray.forrest@epa.gov](mailto:mcmurray.forrest@epa.gov)>; Chmielewski, Kevin  
<[chmielewski.kevin@epa.gov](mailto:chmielewski.kevin@epa.gov)>; Hupp, Sydney <[hupp.sydney@epa.gov](mailto:hupp.sydney@epa.gov)>; Morris,  
Madeline <[morris.madeline@epa.gov](mailto:morris.madeline@epa.gov)>; Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>

**Subject:** July and August Travel

Deliberative Process / Ex. 5

# **Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**

Millan Hupp

Office of the Administrator – Advance

Cell: Personal Phone / Ex. 6 Email: [hupp.millan@epa.gov](mailto:hupp.millan@epa.gov)

**To:** Konkus, John[konkus.john@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/28/2017 4:18:05 PM  
**Subject:** Fwd: Governor Holcomb Statement on Waters of the United States  
[IDEM WOTUS Letter.pdf](#)  
[ATT00001.htm](#)

Begin forwarded message:

**From:** Deborah Hohlt <[debbie@indianagr.com](mailto:debbie@indianagr.com)>  
**Date:** June 28, 2017 at 12:15:35 PM EDT  
**To:** "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Subject:** Fwd: Governor Holcomb Statement on Waters of the United States

Great to catch up at Starbucks. You guys rock.

Debbie Hohlt  
Ex. 6 (direct)  
[debbie@indianagr.com](mailto:debbie@indianagr.com)

Begin forwarded message:

**From:** "McKinney, Caroline" <[CMcKinney1@gov.IN.gov](mailto:CMcKinney1@gov.IN.gov)>  
**Subject:** Governor Holcomb Statement on Waters of the United States  
**Date:** June 28, 2017 at 11:57:01 AM EDT

**STATEMENT**  
For Immediate Release:  
Wednesday, June 28, 2017

## Governor Holcomb Statement on Waters of the United States

INDIANAPOLIS – In response to the U.S. Environmental Protection Agency, the Department of Army and the Army Corps of Engineers proposal to rescind the Clean Water Rule and re-codify the regulatory text that existed prior to the 2015 defining “Waters of the United States” or WOTUS rule, Indiana Governor Eric J. Holcomb issued the following statement:

*“I commend U.S. EPA Administrator Pruitt’s leadership as he seeks to roll back*

*burdensome regulations that measurably impact Hoosier families, businesses and farms. I also thank Administrator Pruitt for actively seeking state input on the reformulation of this rule so that federal officials better understand the common sense approach needed to protect the environment and Hoosier jobs. Indiana knows best how to preserve our state's waterways, and a one-size-fits-all approach from Washington disrupts the predictable regulatory climate we need for continued innovation and economic growth. Rescinding the 2015 WOTUS rule will allow Indiana's environmental regulators and industry leaders, along with state and local officials, to effectively manage the quality of water we need to support public health, recreation and business for our state."*

A copy of the letter regarding the impact of the 2015 WOTUS rule sent to U.S. EPA Administrator Scott Pruitt by Indiana Department of Environmental Management Commissioner Bruno Pigott is attached.

-30-

**Caroline A. McKinney**

Digital Communications Director

Office of Governor Eric J. Holcomb

Office: 317-233-4721 | Cell: Personal Phone / Ex. 6

Follow Governor Eric Holcomb on [Twitter](#), [Facebook](#), & [Instagram](#)

Message

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/28/2017 3:41:41 AM  
**To:** Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, E]  
**Attachments:** ACWA-Comments-on-WOUS-Federalism.pdf; ATT00001.txt

<https://www.acwa-us.org/wp-content/uploads/2017/06/ACWA-Comments-on-WOUS-Federalism.pdf>

**To:** Personal Email / Ex. 6  
**From:** Bennett, Tate  
**Sent:** Wed 6/28/2017 3:18:29 AM  
**Subject:** Fwd: Statements thru 6:30pm

Begin forwarded message:

**From:** "Konkus, John" <[konkus.john@epa.gov](mailto:konkus.john@epa.gov)>  
**Date:** June 27, 2017 at 6:29:07 PM EDT  
**To:** "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>, "Ringel, Aaron" <[ringel.aaron@epa.gov](mailto:ringel.aaron@epa.gov)>, "Lyons, Troy" <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>, "Graham, Amy" <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>, "Ferguson, Lincoln" <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>, "Jackson, Ryan" <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>, "Bowman, Liz" <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>, "Wilcox, Jahan" <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>, "Palich, Christian" <[palich.christian@epa.gov](mailto:palich.christian@epa.gov)>  
**Subject:** Statements thru 6:30pm

Additions noted with an asterisk\*. If I missed any, let me know and I'll add them in tomorrow.

**\*Governor Kim Reynolds (IA):** "Waters of the United States was a significant and severe case of government overreach by the Obama administration. I want to thank Secretary Pruitt for recognizing that WOTUS forced onerous and unnecessary burdens on Iowa's farmers and businesses. I also want to express my appreciation to the Trump administration for its continuing commitment to work with states, not against them."

**\*Governor Sam Brownback (KS):** "The Clean Water Rule was another example of bureaucrats in Washington, D.C. trying to run Kansas farms and ranches. Our state is a leader in water innovation, and Kansans have come together through community-led water preservation efforts spurred by our 50-year Water Vision. Our farmers and ranchers know best how to steward their water. We appreciate that President Trump and the EPA will now let our farmers farm and ranchers ranch."

**\*Governor Eric Greitens (MO):** "When we took office, we asked our farmers and ranchers what we could do to fight for them. One of the things we heard is that they needed our help to push back against Obama's Waters of the US regulations. Well, we took that message to Washington D.C. and the good news is they've heard us. They've heard that Obama's Waters of the US regulations are hurting family farmers."

**Governor Pete Ricketts (NE):** “Thank you to President Trump and Administrator Pruitt for delivering on your promise to roll back this job-killing regulation. This policy returns federal oversight of intra-state waterways to pre-2015 standards, respects the rights of private land owners and states, and provides for ample protection of clean water. Removing this threat to our state’s top industries gives Nebraska the freedom to grow more opportunities for the next generation in the areas of agriculture and manufacturing.”

**Steve Nelson, Common Sense Nebraska:** “Today, countless farmers, ranchers, homebuilders, manufacturers, county governments, golf courses, and small businesses are loudly celebrating the demise of EPA’s proposed WOTUS rule. For over two years, our coalition which represents the very industries who would have had to bear the brunt of this federal land grab, have worked tirelessly to stop this breathtaking assumption of authority by the federal government that flies in the face of Congressional intent, legal precedents, and even science. We want to thank the Trump Administration and EPA Administrator Pruitt specifically for now going back to the drawing board to write a new rule that actually protects water without trampling the rights of businesses and state regulatory agencies.”

**Greg Ibach, Director of the Nebraska Department of Agriculture:** “I applaud the Trump Administration and Secretary Pruitt’s announcement to walk away from the previous administration’s WOTUS rule and begin the process to develop a new rule. The expansive reach and inability to determine what water or land may fall under jurisdiction under the existing regulation puts Nebraska’s agriculture industry in jeopardy. Our farmers and ranchers have proven to be thoughtful stewards of our land and resources, and jurisdiction of those resources should be the responsibility of the states. I look forward to the development of a new rule, founded in common sense, that will support Nebraska’s ability to protect our water and land resources.”

**\*Arkansas Attorney General Leslie Rutledge:** “The full rescindment of this unlawful rule is a big win for Arkansas landowners. WOTUS has been enjoined because of the work of attorneys general, and today’s action shows a clear signal that the EPA is returning to its core mission. I look forward to working with the agency as it works to draft a new, lawful rule that protects our waters and does not harm our farmers and ranchers, who continue to be the first conservationists.”

**\*Wisconsin Attorney General Brad Schimel:** “We fully support the proposed rule signed by EPA Administrator Pruitt today as a significant step in the direction of withdrawing the unlawful WOTUS rule. The WOTUS rule asserts sweeping federal authority over usually dry channels, roadside ditches, and isolated streams. The rule also asserts federal authority over land covered by water only once every one hundred years. We look forward to EPA’s final action withdrawing the WOTUS rule and providing relief for our states and their citizens.”



**\*Ryan Quarles, Kentucky Agriculture Commissioner:** “I applaud EPA Administrator Scott Pruitt’s decision to propose a repeal of the destructive Obama-era ‘Waters of the United States’ rule. By requiring every puddle and pond to be subject to federal regulation, WOTUS represents exactly how executive overreach from Washington can harm Kentucky farmers and all of rural America. Earlier this year, I met with Administrator Pruitt to ask him to repeal this rule, and to uphold the law in the spirit of cooperative federalism between the national and state governments. I am proud to stand with President Trump and Administrator Pruitt as they work to undo the harmful rules and regulations enacted by the previous administration.”

**Chairman of the Senate Environment and Public Works Committee, Senator John Barrasso (WY):** “The WOTUS rule would have put backyard ponds, puddles, and prairie pot holes under Washington’s control. I applaud the Trump administration for working to remove this indefensible regulation. I will continue to work closely with the administration as it seeks commonsense ways to keep America’s water clean and safe.”

**Senator Deb Fischer (NE):** “Today’s announcement from the administration signals another important step toward full removal of the harmful WOTUS rule. All Nebraskans would have been affected by the far-reaching consequences of this misguided policy. I will continue to monitor the WOTUS withdrawal process to help ensure we see common-sense rulemaking that puts Nebraskans in charge of the decisions involving our state’s water resources.”

**Senator Steve Daines (MT):** “Today marks the beginning of restoring private property rights while protecting our environment. Out of state D.C. bureaucrats shouldn’t impose regulations that hurt Montana farmers, ranchers and landowners.”

**\*Senator Chuck Grassley (IA):** “This is great news for accountability in government. This was a bad regulation drafted under a bad process. The EPA over-reached its authority and ignored and manipulated legitimate concerns raised by the public. Farmers, land owners and builders in Iowa struggled to make sense of the regulation. Having the federal EPA and the Corps of Engineers require permits for routine land use decisions is a waste of resources that are better used enforcing existing regulations against discharging pollutants into the nation’s waterways. Agencies ought to enforce the laws as Congress intended, not stretch beyond their authority to inflict unnecessary expense and red tape on law-abiding farmers and employers.”

**Senator Joni Ernst (IA):** “I am pleased that the Trump administration is taking another important step toward eliminating this burdensome WOTUS rule. In Iowa, 97 percent of the land is subject to extensive overregulation by the EPA and unnecessarily hamstrings our farmers, businesses and manufacturers. All across Iowa, folks are calling for this rule to be scrapped, which is why I have led efforts in the Senate to do just that. This is good news for Iowa and rural communities across the country as we move closer to finally eliminating this overreaching rule.”

**Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator Pat Roberts (KS):** “I’m pleased Administrator Pruitt and the EPA has listened to our concerns and has taken an important first step to rescind the infamous WOTUS rule. For too long, this rule has burdened not only farmers and ranchers, but landowners of all sizes, across the country. With a rewrite of the WOTUS rule, I look forward to seeing a rule that recognizes and respects the environmental strides taken by the American farmer and rancher. I’m grateful to have an EPA that listens to and addresses the concerns of rural America, a vital segment of our economy and true stewards of our natural resources.”

**Speaker of the U.S. House, Paul Ryan:** “The West has finally won in the battle over the Obama administration’s WOTUS rule. This regulation would have been a disaster for the West and rural communities across the country, giving Washington near-total control over water resources. The livelihoods of American farmers, ranchers, and entrepreneurs were at stake. I applaud the Trump administration for siding with American jobs and rescinding this harmful rule.”

**\*Chairman of the House Science Committee, Rep. Lamar Smith (TX):** “Clean water is a necessity for all Americans. Today’s decision by EPA and the Army Corps of Engineers to go back to the basics and build a better policy with input from local stakeholders puts the power back in the hands of the people. The Obama administration imposed heavy-handed federal regulations on virtually every private and public lake, pond and stream across the country. A full repeal of this rule will further protect private landowners and farmers from federal regulatory overreach. I look forward to a policy that actually helps protect clean water without unnecessary regulation.”

**\*Chairman of the House Natural Resources Committee Rob Bishop (UT):** “This rule aggrandized federal bureaucrats at the expense of farmers’ water and private property rights. EPA’s decision to stay and now rescind WOTUS is another welcome act from the Trump Administration to return power back to the states and untangle harmful Washington excesses.”

**\*U.S. Rep. Mike Bost (IL):** “Turning back WOTUS is a clear win for Southern Illinois’

hardworking farmers, ranchers, construction workers, and manufacturers. The Obama Administration's WOTUS rule was a federal power grab of epic proportions, expanding EPA control to puddles, ditches and farmland ponds across America. That's why I have fought so hard to eliminate this misguided rule. We must be good stewards of the environment, but we can do so without imposing crushing D.C. regulations that will put Southern Illinois' economy at risk and impact millions of rural Americans."

**U.S. Rep. Paul Gosar (AZ):** "Today's announcement is excellent news for communities throughout the country. The Obama Administration threatened the very livelihoods of farmers, ranchers, small businesses and water users when unilaterally enacting the job-killing WOTUS Rule by executive fiat. The Trump Administration has already made great strides in rolling back this unconstitutional mandate and I am thrilled to see EPA Administrator Pruitt continue that good work with today's proposed rule. Western Caucus members look forward to working closely with the administration to put a nail in the coffin of Gina McCarthy's water grab."

**U.S. Rep. Scott Tipton (CO):** "This announcement from Administrator Pruitt is welcome news. State law and priority-based systems have ensured clean, safe, and reliable water supplies for over a century in Colorado and the West. The WOTUS rule would have usurped long-held state water law and threatened access to private water rights. Western water users will now have much needed certainty while the EPA re-writes the definition of 'Waters of the United States.'"

**U.S. Rep. Dan Newhouse (WA):** "I applaud the action taken by the EPA and U.S. Army Corps of Engineers to follow up on President Trump's order to review the intrusive and overreaching Waters of the United States rule. I look forward to working with my colleagues and EPA Administrator Pruitt to replace the ill-conceived WOTUS rule with a commonsense proposal that protects clean water, as well as the water and property rights of farmers, ranchers, small businesses, and water users across the country."

**U.S. Rep. Steve Pearce (NM):** "This is great news for stronger job growth throughout New Mexico. Under the WOTUS Rule, Washington bureaucrats were given complete authority to regulate small streams along with natural and manmade ditches on lands owned by farmers, ranchers, and small businesses. This unlawful expansion of power proposed by the Obama Administration would drive up costs for landowners and cost thousands of jobs. I'm pleased to see the EPA and the Army Corps of Engineers recommit to strengthening rural economies."

**U.S. Rep. Bruce Westerman (AR):** "I am happy that the administration has listened to the concerns of those most impacted by this egregious, unconstitutional overreach by the

Environmental Protection Agency. The decision to withdraw the previous administration's WOTUS rule is a win for private property rights and will have a positive impact on farmers, ranchers, and other job creators."

**U.S. Rep. Cathy McMorris Rodgers (WA):** "WOTUS is one of the most burdensome EPA rules of the Obama Administration. You think about the impact it's had on rural communities, on our cattlemen and farmers—it's making it more and more difficult for hardworking Americans to be successful. It's something I've heard about frequently in Eastern Washington. Thank you to President Trump and his administration for taking action to ensure this rule no longer targets our rural communities."

**U.S. Rep. Tom Emmer (MN):** "I am pleased with today's actions by the Trump Administration to repeal the harmful and overly burdensome WOTUS rule. While there is still work to be done to redefine WOTUS, this step gives our nation's farmers, manufacturers and home builders greater certainty and gets the federal government out of their way. This is a welcome move that will benefit our economy today and for years to come."

**U.S. Rep. Doug Lamborn (CO):** "The previous administration used the vague language in the WOTUS Rule to harm local communities—including ranchers, farmers, small business owners. I am grateful that this new ruling will establish regulatory certainty and restore order to state and tribal water laws that should have jurisdiction over these bodies of water. I look forward to a revision of this rule that will empower local landowners instead of giving power solely to the federal government."

**U.S. Rep. Mike Johnson (LA):** "The so called 'WOTUS Rule' was a gross overreach by the Obama Administration and put mud puddles and backyard ditches under government control. Farmers and every day Americans all across the country have been subjected to new, burdensome regulations that kill jobs and further hinder the economy. Removing this rule will restore common sense to water regulation and return power back to the states and to the people."

**\*U.S. Rep. Rick Allen (GA):** "The WOTUS rule was flawed from the beginning, and I applaud EPA Administrator Scott Pruitt's action to rescind this regulation. WOTUS was yet another attempt by the previous administration to undermine the rights of states, local governments and landowners by allowing the federal government to regulate backyard streams and puddles. Our farmers work each and every day to care for our land and preserve it for generations to come. I am happy to see the Trump Administration empowering America's farmers and taking another step towards removing the overreaching hand of government from their everyday lives. In February, I introduced H.R. 1105,

legislation to repeal the WOTUS rule and now that the EPA has rescinded the rule, Congress must codify this language to ensure WOTUS can never become a reality under any future administrations.”

**\*U.S. Rep. Doug LaMalfa (CA):** “The job-killing WOTUS Rule was one of the most egregious regulations implemented by the Obama Administration and former EPA Administrator Gina McCarthy. The repeal of this mandate is nothing short of a victory for private property rights across the country. Many in California’s first district have expressed their frustrations with this rule, such as California farmer John Duarte, who faces millions of dollars in fines under this rule – simply for plowing his fields. We have more work to be done, but I am thankful President Trump and EPA Administrator Scott Pruitt have shown a commitment to fighting this type of over-burdensome regulation that was indicative of the previous administration’s power grabs.”

**U.S. Rep. Raul Labrador (ID):** I applaud the Trump administration for continuing to roll back excessive regulations that are harming Idaho’s businesses and communities. I strongly opposed the previous administration’s ‘WOTUS’ rule and I worked with my colleagues on a legislative fix. Regulatory reform is critical to Idaho’s economy, and I appreciate the administration for continuing to show leadership on these types of issues.”

**U.S. Rep. Martha McSally (AZ):** “WOTUS is a sweeping regulation written by unelected bureaucrats that would give the EPA jurisdiction over any type of body of water on private land—lakes, ponds, creeks, and even desert washes. I have heard from countless small businesses, farmers, and ranchers that this rule prevents them from doing their job, which is why I led dozens of my colleagues in Congress in writing to the Administration in February urging the President to reverse this rule for the sake of Southern Arizona and communities throughout the United States. I am pleased with the EPA’s decision to repeal the harmful WOTUS rule—and I know that Americans across the country are relieved by this news.”

**U.S. Rep. Lee Abraham (LA):** “I represent one of the largest row crop districts in the nation, and nearly every farmer I talk to wants this rule repealed. As an active farmer myself, I understand and share their frustrations with WOTUS. Today’s news is a welcomed relief for farmers around this country, and I thank President Trump and Administrator Pruitt for the actions they’ve taken so far to repeal this terrible rule.”

**U.S. Rep. Roger Marshall (KS):** “I commend and thank the Trump Administration for their decisive and effective actions to repeal the misguided Waters of the United States rule. Kansas farmers, ranchers, businesses and even municipalities know all too well, WOTUS dramatically expanded the reach of the federal government with minimal improvements in

water quality. Today's announcement serves as a tremendous relief to Kansans and provides the regulatory certainty we need to grow. This is yet another exciting step in fulfilling this Administration and Congress' promise to return government to its proper role."

**U.S Rep. Louie Gohmert (TX):** Washington bureaucrats in cubicles should not be deciding the fate of our waterways, nor should they be allowed to completely and arbitrarily control the economic fate of landowners even to the point of ending their ability to make a living. Unelected bureaucrats have, for years, been enviously dreaming of the day they could control American landowners' property by the backdoor methods of completely controlling everything involving water on or near the land. Repealing the Obama Administration's WOTUS Rule is essential in getting the federal government out of everyday farming operations. It is neither right nor fair to subject producers and landowners to jurisdictional protocols and extraordinary levels of compliance charges. Today the EPA took a giant step forward in safeguarding the water rights of hard-working Americans and ending the federal power grab the Obama Administration engineered. It is a victory for those who love liberty and something called private property."

**U.S. Rep. Andy Biggs (AZ):** I applaud Administrator Pruitt for his proposal to repeal the Waters of the United States (WOTUS) Rule, which was one of the most onerous rules from the Obama administration. WOTUS was opposed by over 200 organizations and local communities and would have had devastating effects on western states, including Arizona. This action provides another example that the Trump administration favors freedom and prosperity for our economy over regulatory outreach, and we join the administration in their efforts."

**U.S. Rep. Doug Collins (GA):** "Northeast Georgia farmers, ranchers, and small businesses are natural conservationists who have been overburdened by the illogical Waters of the United States regulation. I applaud the Army Corps of Engineers and Environmental Protection Agency for their move to repeal the WOTUS rule in favor of statutes that actually serve our communities and steward their natural resources wisely."

**U.S. Rep. Markwayne Mullin (OK):** "Since the previous administration put the WOTUS Rule in place, I have been fighting tooth and nail to overturn it. The harmful effects it has on our farmers, ranchers, and small businesses are felt nationwide. Moreover, the WOTUS Rule allowed Washington bureaucrats to regulate the streams and creeks in the backyards of Oklahomans, when in reality these bureaucrats don't know the first thing about a backyard like mine." "The rule proposed today by the EPA and Army Corps of Engineers delivers the long overdue relief from this unlawful water grab that our farmers and ranchers desperately need. I'm grateful to EPA Administrator Scott Pruitt for acting swiftly to repeal this misguided rule."

**U.S Rep. Kristi Noem (SD):** “Under the Obama-era WOTUS rule, treating your lawn for mosquitos, putting up a fence in your backyard or spraying your crops could become federally regulated activities that carry substantial fines if violations occur – knowingly or unknowingly. The Trump administration is right to propose a repeal.”

**U.S Rep. Liz Cheney (WY):** “The Clean Water Rule was a power grab by the Obama Administration that attempted to expand federal control and regulations well beyond the initial scope of Waters of the U.S. The rule threatened the loss of precious resources for hardworking ranchers and farmers in Wyoming, and if left unchecked, would have devastated our rural economy. I am pleased to see EPA Administrator Pruitt and the Army Corps of Engineers taking these steps to return power to the states and provide them with regulatory certainty. I also remain committed to working in Congress towards a full repeal of burdensome regulations imposed by the previous administration.”

**House Agriculture Committee Chairman K. Michael Conaway (TX-11):** “WOTUS has never been about clean water, it was about feeding the Obama EPA’s insatiable appetite for power. Well that ends now. Today’s EPA announcement is an important first step to getting the federal government out of America’s backyards, fields and ditches and restoring certainty and integrity to our regulatory process. But our work isn’t done. As the case of California farmer John Duarte clearly highlights, the Corps and DOJ also need to re-evaluate and revise their enforcement of the Clean Water Act and WOTUS to ensure we protect our farmers and ranchers from onerous fines and penalties that threaten their way of life. I have confidence this administration will get the policy right and allow farmers and ranchers to be the capable stewards of the land they’ve always been.”

**U.S. Rep. Bob Gibbs (OH):** “I applaud Administrator Pruitt’s announcement to withdraw the Obama-era Waters of the United States rule, which expanded federal authority at the expense of the states and eroded private property rights. The EPA should not treat farmers, ranchers, homebuilders, local governments, or state environmental agencies as adversaries but rather collaborators in drafting a new WOTUS rule. American farmers who feed the world are among those most concerned with protecting our environment. The next WOTUS rule should take their opinions and concerns into account and I look forward to working with Administrator Pruitt to craft a reasonable rule that protects the environment and private property rights at the same time.”

**U.S. Chamber of Commerce Senior Vice President for Environment, Technology, and Regulatory Affairs Bill Kovacs:** “We commend EPA for taking an analytical approach to repealing and fixing the misguided WOTUS rule. Now, all stakeholders will have an opportunity to provide public comment, and the agency will have the proper time to analyze the input and unwind a confusing rule that impacted America’s businesses, farmers, and land owners. The final WOTUS rule issued by the last administration was unworkable, a

fact acknowledged by courts around the country, and amounted to a massive grab of regulatory authority by an EPA that was overreaching. We look forward to working with Administrator Pruitt and his team to craft a rule that protects public health and the environment, while giving clarity and certainty to our nation's farmers and job creators."

**National Farmers Union (NFU) President Roger Johnson:** "Family farmers and ranchers are the stewards of our land, and they understand the importance of clean water today and for future generations. Farmers also need regulatory certainty. NFU was engaged in the WOTUS rulemaking process to ensure family farmers ended up with an appropriate and definitive final rule, yet opposed the final WOTUS rule because it was ultimately an expansion of the Clean Water Act's jurisdiction. Any new rule should ensure the agriculture community can conduct its business free from fear of undue regulatory interference and without sacrificing the agencies' ability to protect the United States' water resources."

**Texas farmer Wesley Spurlock, president of the National Corn Growers Association:** "The goal of the Clean Water Act is to restore and maintain the integrity of the nation's waters. The 2015 rule moved us further away from that goal. Repealing it is an important first step toward providing farmers the certainty and clarity we have long desired. We are thankful this Administration is working to draw clear lines in terms of what is and what is not jurisdictional under the Clean Water Act. In doing so, they will enable farmers to implement best management practices such as grass waterways and buffer strips without the burden of bureaucratic red tape or fear of legal action. These types of land improvements have enormous water quality benefits, such as reducing sediment and nutrient runoff—a win for farmers and the environment. Government should be making these actions easier, not more difficult. We salute the EPA and Army Corps of Engineers for their efforts. We stand committed to working with these agencies as they develop a new rule that defines jurisdictional boundaries in clear terms that are inclusive of the realities of farming."

**National Rural Electric Cooperative Association (NRECA) CEO Jim Matheson:** "We appreciate EPA Administrator Pruitt recognizing the need to revisit this overbearing regulation and avoid needless increased costs for millions of electric co-op consumers. As written, the rule would dramatically expand federal oversight of features that only hold water after a rain. This would have increased costs and impaired the ability of co-ops to build and maintain power lines. We encourage EPA and the Army Corps of Engineers to propose a new common-sense rule that recognizes the role of the states, protects the environment, and allows co-ops to continue providing affordable and reliable power."

**Zippy Duvall, president, American Farm Bureau Federation:** "Farmers and ranchers across this country are cheering EPA's proposal today to ditch its flawed Waters of the U.S. rule. We know the importance of clean water, and farmers and ranchers work hard to protect our natural resources every day. But this rule was never really about clean water. It was a federal land grab designed to put a straightjacket on farming and private businesses



across this nation. That's why our federal courts blocked it from going into effect for the past two years. Today's announcement shows EPA Administrator Pruitt recognizes the WOTUS rule for what it is—an illegal and dangerous mistake that needs to be corrected. Farm Bureau looks forward to supporting Administrator Pruitt's proposal. EPA should ditch this rule once and for all, go back to the drawing board, and write a new rule that protects water quality without trampling the rights of businesses and the states."

**National Mining Association (NMA) President and CEO Hal Quinn:** "This sets in motion a welcome correction to a deeply problematic regulation that ignored the careful balance that Congress struck between federal and state water regulation and Constitutional limits on federal authority. Under the guise of clarifying federal Clean Water Act jurisdiction, the WOTUS rule impermissibly expanded federal jurisdiction to virtually any standing body of water -- from roadside drainage ditches to local green energy projects. We look forward to working with the administration as it replaces the WOTUS rule with environmentally responsible policies that provide regulatory clarity for businesses and proper recognition of state authority to manage water quality as Congress intended."

**Edison Electric Institute (EEI) President Tom Kuhn:** "EEI's member companies are committed to a healthy environment and to a clean and affordable energy future. By rescinding the problematic Waters of the United States (WOTUS) rule, EPA Administrator Pruitt and the Army Corps of Engineers have taken an important step to reconsider a rule that, if left unchanged, would have triggered substantial new regulatory requirements for critical electric company operations, creating substantial compliance costs. As EEI and allied stakeholders consistently have noted through comments and through our participation in litigation challenging the current WOTUS rule, our industry supports a new rulemaking that more clearly and narrowly defines which waterbodies are subject to federal jurisdiction, and enhances opportunities to streamline energy infrastructure permitting. We also thank EPA and the Army Corps of Engineers for seeking more input from the states on the rulemaking, and look forward to working with their staffs as they review and revise the regulations."

**National Association of State Departments of Agriculture (NASDA) President and Louisiana Commissioner of Agriculture Michael G. Strain:** "The EPA has sided with state and local governments, farmers, landowners, and small businesses in their decision to rescind this burdensome regulation. The 2015 rule lacked clarity, and was fraught with procedural concerns and violations of congressional intent, making it necessary to start over with a new rule that protects clean water and respects state regulatory authority. State laws and programs partner with EPA, farmers and ranchers, and local entities to protect clean water every day. We look forward to working cooperatively with the EPA in developing – and eventually implementing – a new rule."

**Environmental Council of the States (ECOS) President John Linc Stine,**

**Commissioner of the Minnesota Pollution Control Agency:** "Today's proposed rule is a key step in creating an opportunity to develop a regulatory approach to defining waters of the United States in a fully collaborative fashion. We look forward to a productive, results-oriented conversation among states, EPA, the Army Corps of Engineers, and all stakeholders to provide greater regulatory certainty and clarity, and to ensure that waters are protected by an appropriate allocation of state and federal laws, regulations, programs, and resources."

**\*National Stripper Well Association Chairwoman Darlene Wallace:** "Today's actions by President Trump in repealing the deeply misguided Waters of the United States rule implemented by the last administration gives NSWA membership cause to celebrate the President keeping his promises and working to protect small businesses and oil and gas producers. The terrible impacts facing small oil and gas producers as a result of the over expansive and unnecessary regulation proposed by the previous administration are wiped away putting another promise kept and another sign that relief for American businesses is on the way. NSWA also wants to thank Administrator Pruitt and all the staff at EPA for their hard work in delivering this relief for the American workers."

**\*American Exploration & Mining Association Executive Director Laura Skaer:** "Our members are greatly encouraged to see the Trump administration undo this unnecessary rule and return states' authority over water regulation and regulatory certainty that is crucial to a prosperous American mining industry. Mining is ready to get back to work and grow communities. Ending this deeply flawed rule allows us to do just that."

**\*National Cattlemen's Beef Association President Craig Uden:** "This is another great step in the right direction, and the Administration deserves a great deal of credit for injecting some much-needed common sense into our nation's environmental policies. It's important to remember, though, that this rule isn't dead yet. The rulemaking process continues, and NCBA will submit and solicit additional comments on behalf of America's cattle producers so that they finally get the sanity and clarity they need on land use policy."

**\*Public Lands Council President Dave Eliason:** "We applaud President Trump and Administrator Pruitt for their leadership in repealing the 2015 WOTUS rule. Ranchers in the West are already subject to an elevated level of regulatory overreach, and the WOTUS rule as written would have only made the problem worse. It is reassuring to see the steps that this administration is taking to relieve some of that regulatory burden and provide certainty for our producers."

John Konkus

Deputy Associate Administrator

Office of Public Affairs

Environmental Protection Agency

Cell: Personal Phone / Ex. 6

**To:** Dravis, Samantha[dravis.samantha@epa.gov]; Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Tue 6/27/2017 10:51:05 PM  
**Subject:** FW: Statements thru 6:30pm

FYI on WOTUS

**From:** Konkus, John  
**Sent:** Tuesday, June 27, 2017 6:29 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Palich, Christian <palich.christian@epa.gov>  
**Subject:** Statements thru 6:30pm

Additions noted with an asterisk\*. If I missed any, let me know and I'll add them in tomorrow.

**\*Governor Kim Reynolds (IA):** "Waters of the United States was a significant and severe case of government overreach by the Obama administration. I want to thank Secretary Pruitt for recognizing that WOTUS forced onerous and unnecessary burdens on Iowa's farmers and businesses. I also want to express my appreciation to the Trump administration for its continuing commitment to work with states, not against them."

**\*Governor Sam Brownback (KS):** "The Clean Water Rule was another example of bureaucrats in Washington, D.C. trying to run Kansas farms and ranches. Our state is a leader in water innovation, and Kansans have come together through community-led water preservation efforts spurred by our 50-year Water Vision. Our farmers and ranchers know best how to steward their water. We appreciate that President Trump and the EPA will now let our farmers farm and ranchers ranch."

**\*Governor Eric Greitens (MO):** "When we took office, we asked our farmers and ranchers what we could do to fight for them. One of the things we heard is that they needed our help to push back against Obama's Waters of the US regulations. Well, we took that message to Washington D.C. and the good news is they've heard us. They've heard that Obama's Waters of the US regulations are hurting family farmers."

**Governor Pete Ricketts (NE):** “Thank you to President Trump and Administrator Pruitt for delivering on your promise to roll back this job-killing regulation. This policy returns federal oversight of intra-state waterways to pre-2015 standards, respects the rights of private land owners and states, and provides for ample protection of clean water. Removing this threat to our state’s top industries gives Nebraska the freedom to grow more opportunities for the next generation in the areas of agriculture and manufacturing.”

**Steve Nelson, Common Sense Nebraska:** “Today, countless farmers, ranchers, homebuilders, manufacturers, county governments, golf courses, and small businesses are loudly celebrating the demise of EPA’s proposed WOTUS rule. For over two years, our coalition which represents the very industries who would have had to bear the brunt of this federal land grab, have worked tirelessly to stop this breathtaking assumption of authority by the federal government that flies in the face of Congressional intent, legal precedents, and even science. We want to thank the Trump Administration and EPA Administrator Pruitt specifically for now going back to the drawing board to write a new rule that actually protects water without trampling the rights of businesses and state regulatory agencies.”

**Greg Ibach, Director of the Nebraska Department of Agriculture:** “I applaud the Trump Administration and Secretary Pruitt’s announcement to walk away from the previous administration’s WOTUS rule and begin the process to develop a new rule. The expansive reach and inability to determine what water or land may fall under jurisdiction under the existing regulation puts Nebraska’s agriculture industry in jeopardy. Our farmers and ranchers have proven to be thoughtful stewards of our land and resources, and jurisdiction of those resources should be the responsibility of the states. I look forward to the development of a new rule, founded in common sense, that will support Nebraska’s ability to protect our water and land resources.”

**\*Arkansas Attorney General Leslie Rutledge:** “The full rescindment of this unlawful rule is a big win for Arkansas landowners. WOTUS has been enjoined because of the work of attorneys general, and today’s action shows a clear signal that the EPA is returning to its core mission. I look forward to working with the agency as it works to draft a new, lawful rule that protects our waters and does not harm our farmers and ranchers, who continue to be the first conservationists.”

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**Senator Joni Ernst (IA):** “I am pleased that the Trump administration is taking another important step toward eliminating this burdensome WOTUS rule. In Iowa, 97 percent of the land is subject to extensive overregulation by the EPA and unnecessarily hamstringing our farmers,

businesses and manufacturers. All across Iowa, folks are calling for this rule to be scrapped, which is why I have led efforts in the Senate to do just that. This is good news for Iowa and rural communities across the country as we move closer to finally eliminating this overreaching rule.”

**Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator Pat Roberts (KS):** “I’m pleased Administrator Pruitt and the EPA has listened to our concerns and has taken an important first step to rescind the infamous WOTUS rule. For too long, this rule has burdened not only farmers and ranchers, but landowners of all sizes, across the country. With a rewrite of the WOTUS rule, I look forward to seeing a rule that recognizes and respects the environmental strides taken by the American farmer and rancher. I’m grateful to have an EPA that listens to and addresses the concerns of rural America, a vital segment of our economy and true stewards of our natural resources.”

**Speaker of the U.S. House, Paul Ryan:** “The West has finally won in the battle over the Obama administration’s WOTUS rule. This regulation would have been a disaster for the West and rural communities across the country, giving Washington near-total control over water resources. The livelihoods of American farmers, ranchers, and entrepreneurs were at stake. I applaud the Trump administration for siding with American jobs and rescinding this harmful rule.

**\*Chairman of the House Science Committee, Rep. Lamar Smith (TX):** “Clean water is a necessity for all Americans. Today’s decision by EPA and the Army Corps of Engineers to go back to the basics and build a better policy with input from local stakeholders puts the power back in the hands of the people. The Obama administration imposed heavy-handed federal regulations on virtually every private and public lake, pond and stream across the country. A full repeal of this rule will further protect private landowners and farmers from federal regulatory overreach. I look forward to a policy that actually helps protect clean water without unnecessary regulation.”

**\*Chairman of the House Natural Resources Committee Rob Bishop (UT):** “This rule aggrandized federal bureaucrats at the expense of farmers’ water and private property rights. EPA’s decision to stay and now rescind WOTUS is another welcome act from the Trump Administration to return power back to the states and untangle harmful Washington excesses.”

**\*U.S. Rep. Mike Bost (IL):** “Turning back WOTUS is a clear win for Southern Illinois’ hardworking farmers, ranchers, construction workers, and manufacturers. The Obama Administration’s WOTUS rule was a federal power grab of epic proportions, expanding EPA control to puddles, ditches and farmland ponds across America. That’s why I have fought so hard to eliminate this misguided rule. We must be good stewards of the environment, but we can do so without imposing crushing D.C. regulations that will put Southern Illinois’ economy at risk and impact millions of rural Americans.”

**U.S. Rep. Paul Gosar (AZ):** “Today’s announcement is excellent news for communities throughout the country. The Obama Administration threatened the very livelihoods of farmers, ranchers, small businesses and water users when unilaterally enacting the job-killing WOTUS Rule by executive fiat. The Trump Administration has already made great strides in rolling back this unconstitutional mandate and I am thrilled to see EPA Administrator Pruitt continue that good work with today’s proposed rule. Western Caucus members look forward to working closely with the administration to put a nail in the coffin of Gina McCarthy’s water grab.”

**U.S. Rep. Scott Tipton (CO):** “This announcement from Administrator Pruitt is welcome news. State law and priority-based systems have ensured clean, safe, and reliable water supplies for over a century in Colorado and the West. The WOTUS rule would have usurped long-held state water law and threatened access to private water rights. Western water users will now have much needed certainty while the EPA re-writes the definition of ‘Waters of the United States.’”

**U.S. Rep. Dan Newhouse (WA):** “I applaud the action taken by the EPA and U.S. Army Corps of Engineers to follow up on President Trump’s order to review the intrusive and overreaching Waters of the United States rule. I look forward to working with my colleagues and EPA Administrator Pruitt to replace the ill-conceived WOTUS rule with a commonsense proposal that protects clean water, as well as the water and property rights of farmers, ranchers, small businesses, and water users across the country.”

**U.S. Rep. Steve Pearce (NM):** “This is great news for stronger job growth throughout New Mexico. Under the WOTUS Rule, Washington bureaucrats were given complete authority to regulate small streams along with natural and manmade ditches on lands owned by farmers, ranchers, and small businesses. This unlawful expansion of power proposed by the Obama Administration would drive up costs for landowners and cost thousands of jobs. I’m pleased to see the EPA and the Army Corps of Engineers recommit to strengthening rural economies.”

**U.S. Rep. Bruce Westerman (AR):** “I am happy that the administration has listened to the concerns of those most impacted by this egregious, unconstitutional overreach by the Environmental Protection Agency. The decision to withdraw the previous administration’s WOTUS rule is a win for private property rights and will have a positive impact on farmers, ranchers, and other job creators.”

**U.S. Rep. Cathy McMorris Rodgers (WA):** “WOTUS is one of the most burdensome EPA rules of the Obama Administration. You think about the impact it’s had on rural communities, on our cattlemen and farmers— it’s making it more and more difficult for hardworking Americans to



be successful. It's something I've heard about frequently in Eastern Washington. Thank you to President Trump and his administration for taking action to ensure this rule no longer targets our rural communities."

**U.S. Rep. Tom Emmer (MN):** "I am pleased with today's actions by the Trump Administration to repeal the harmful and overly burdensome WOTUS rule. While there is still work to be done to redefine WOTUS, this step gives our nation's farmers, manufacturers and home builders greater certainty and gets the federal government out of their way. This is a welcome move that will benefit our economy today and for years to come."

**U.S. Rep. Doug Lamborn (CO):** "The previous administration used the vague language in the WOTUS Rule to harm local communities—including ranchers, farmers, small business owners. I am grateful that this new ruling will establish regulatory certainty and restore order to state and tribal water laws that should have jurisdiction over these bodies of water. I look forward to a revision of this rule that will empower local landowners instead of giving power solely to the federal government."

**U.S. Rep. Mike Johnson (LA):** "The so called 'WOTUS Rule' was a gross overreach by the Obama Administration and put mud puddles and backyard ditches under government control. Farmers and every day Americans all across the country have been subjected to new, burdensome regulations that kill jobs and further hinder the economy. Removing this rule will restore common sense to water regulation and return power back to the states and to the people."

**\*U.S. Rep. Rick Allen (GA):** "The WOTUS rule was flawed from the beginning, and I applaud EPA Administrator Scott Pruitt's action to rescind this regulation. WOTUS was yet another attempt by the previous administration to undermine the rights of states, local governments and landowners by allowing the federal government to regulate backyard streams and puddles. Our farmers work each and every day to care for our land and preserve it for generations to come. I am happy to see the Trump Administration empowering America's farmers and taking another step towards removing the overreaching hand of government from their everyday lives. In February, I introduced H.R. 1105, legislation to repeal the WOTUS rule and now that the EPA has rescinded the rule, Congress must codify this language to ensure WOTUS can never become a reality under any future administrations."

**\*U.S. Rep. Doug LaMalfa (CA):** "The job-killing WOTUS Rule was one of the most egregious regulations implemented by the Obama Administration and former EPA Administrator Gina McCarthy. The repeal of this mandate is nothing short of a victory for private property rights across the country. Many in California's first district have expressed their frustrations with this rule, such as California farmer John Duarte, who faces millions of dollars in fines under this rule

– simply for plowing his fields. We have more work to be done, but I am thankful President Trump and EPA Administrator Scott Pruitt have shown a commitment to fighting this type of over-burdensome regulation that was indicative of the previous administration’s power grabs.”

**U.S. Rep. Raul Labrador (ID):** I applaud the Trump administration for continuing to roll back excessive regulations that are harming Idaho’s businesses and communities. I strongly opposed the previous administration’s ‘WOTUS’ rule and I worked with my colleagues on a legislative fix. Regulatory reform is critical to Idaho’s economy, and I appreciate the administration for continuing to show leadership on these types of issues.”

**U.S. Rep. Martha McSally (AZ):** “WOTUS is a sweeping regulation written by unelected bureaucrats that would give the EPA jurisdiction over any type of body of water on private land—lakes, ponds, creeks, and even desert washes. I have heard from countless small businesses, farmers, and ranchers that this rule prevents them from doing their job, which is why I led dozens of my colleagues in Congress in writing to the Administration in February urging the President to reverse this rule for the sake of Southern Arizona and communities throughout the United States. I am pleased with the EPA’s decision to repeal the harmful WOTUS rule—and I know that Americans across the country are relieved by this news.”

**U.S. Rep. Lee Abraham (LA):** “I represent one of the largest row crop districts in the nation, and nearly every farmer I talk to wants this rule repealed. As an active farmer myself, I understand and share their frustrations with WOTUS. Today’s news is a welcomed relief for farmers around this country, and I thank President Trump and Administrator Pruitt for the actions they’ve taken so far to repeal this terrible rule.”

**U.S. Rep. Roger Marshall (KS):** “I commend and thank the Trump Administration for their decisive and effective actions to repeal the misguided Waters of the United States rule. Kansas farmers, ranchers, businesses and even municipalities know all too well, WOTUS dramatically expanded the reach of the federal government with minimal improvements in water quality. Today’s announcement serves as a tremendous relief to Kansans and provides the regulatory certainty we need to grow. This is yet another exciting step in fulfilling this Administration and Congress’ promise to return government to its proper role.”

**U.S Rep. Louie Gohmert (TX):** Washington bureaucrats in cubicles should not be deciding the fate of our waterways, nor should they be allowed to completely and arbitrarily control the economic fate of landowners even to the point of ending their ability to make a living. Unelected bureaucrats have, for years, been enviously dreaming of the day they could control American landowners' property by the backdoor methods of completely controlling everything involving water on or near the land. Repealing the Obama Administration’s WOTUS Rule is essential in getting the federal government out of everyday farming operations. It is neither right nor fair to

subject producers and landowners to jurisdictional protocols and extraordinary levels of compliance charges. Today the EPA took a giant step forward in safeguarding the water rights of hard-working Americans and ending the federal power grab the Obama Administration engineered. It is a victory for those who love liberty and something called private property.”

**U.S. Rep. Andy Biggs (AZ):** I applaud Administrator Pruitt for his proposal to repeal the Waters of the United States (WOTUS) Rule, which was one of the most onerous rules from the Obama administration. WOTUS was opposed by over 200 organizations and local communities and would have had devastating effects on western states, including Arizona. This action provides another example that the Trump administration favors freedom and prosperity for our economy over regulatory outreach, and we join the administration in their efforts.”

**U.S. Rep. Doug Collins (GA):** “Northeast Georgia farmers, ranchers, and small businesses are natural conservationists who have been overburdened by the illogical Waters of the United States regulation. I applaud the Army Corps of Engineers and Environmental Protection Agency for their move to repeal the WOTUS rule in favor of statutes that actually serve our communities and steward their natural resources wisely.”

**U.S. Rep. Markwayne Mullin (OK):** “Since the previous administration put the WOTUS Rule in place, I have been fighting tooth and nail to overturn it. The harmful effects it has on our farmers, ranchers, and small businesses are felt nationwide. Moreover, the WOTUS Rule allowed Washington bureaucrats to regulate the streams and creeks in the backyards of Oklahomans, when in reality these bureaucrats don’t know the first thing about a backyard like mine.” “The rule proposed today by the EPA and Army Corps of Engineers delivers the long overdue relief from this unlawful water grab that our farmers and ranchers desperately need. I’m grateful to EPA Administrator Scott Pruitt for acting swiftly to repeal this misguided rule.”

**U.S Rep. Kristi Noem (SD):** “Under the Obama-era WOTUS rule, treating your lawn for mosquitos, putting up a fence in your backyard or spraying your crops could become federally regulated activities that carry substantial fines if violations occur – knowingly or unknowingly. The Trump administration is right to propose a repeal.”

**U.S Rep. Liz Cheney (WY):** “The Clean Water Rule was a power grab by the Obama Administration that attempted to expand federal control and regulations well beyond the initial scope of Waters of the U.S. The rule threatened the loss of precious resources for hardworking ranchers and farmers in Wyoming, and if left unchecked, would have devastated our rural economy. I am pleased to see EPA Administrator Pruitt and the Army Corps of Engineers taking these steps to return power to the states and provide them with regulatory certainty. I also remain committed to working in Congress towards a full repeal of burdensome regulations imposed by the previous administration.”

**House Agriculture Committee Chairman K. Michael Conaway (TX-11):** “WOTUS has never been about clean water, it was about feeding the Obama EPA’s insatiable appetite for power. Well that ends now. Today’s EPA announcement is an important first step to getting the federal government out of America’s backyards, fields and ditches and restoring certainty and integrity to our regulatory process. But our work isn’t done. As the case of California farmer John Duarte clearly highlights, the Corps and DOJ also need to re-evaluate and revise their enforcement of the Clean Water Act and WOTUS to ensure we protect our farmers and ranchers from onerous fines and penalties that threaten their way of life. I have confidence this administration will get the policy right and allow farmers and ranchers to be the capable stewards of the land they’ve always been.”

**U.S. Rep. Bob Gibbs (OH):** “I applaud Administrator Pruitt’s announcement to withdraw the Obama-era Waters of the United States rule, which expanded federal authority at the expense of the states and eroded private property rights. The EPA should not treat farmers, ranchers, homebuilders, local governments, or state environmental agencies as adversaries but rather collaborators in drafting a new WOTUS rule. American farmers who feed the world are among those most concerned with protecting our environment. The next WOTUS rule should take their opinions and concerns into account and I look forward to working with Administrator Pruitt to craft a reasonable rule that protects the environment and private property rights at the same time.”

**U.S. Chamber of Commerce Senior Vice President for Environment, Technology, and Regulatory Affairs Bill Kovacs:** “We commend EPA for taking an analytical approach to repealing and fixing the misguided WOTUS rule. Now, all stakeholders will have an opportunity to provide public comment, and the agency will have the proper time to analyze the input and unwind a confusing rule that impacted America’s businesses, farmers, and land owners. The final WOTUS rule issued by the last administration was unworkable, a fact acknowledged by courts around the country, and amounted to a massive grab of regulatory authority by an EPA that was overreaching. We look forward to working with Administrator Pruitt and his team to craft a rule that protects public health and the environment, while giving clarity and certainty to our nation’s farmers and job creators.”

**National Farmers Union (NFU) President Roger Johnson:** “Family farmers and ranchers are the stewards of our land, and they understand the importance of clean water today and for future generations. Farmers also need regulatory certainty. NFU was engaged in the WOTUS rulemaking process to ensure family farmers ended up with an appropriate and definitive final rule, yet opposed the final WOTUS rule because it was ultimately an expansion of the Clean Water Act’s jurisdiction. Any new rule should ensure the agriculture community can conduct its business free from fear of undue regulatory interference and without sacrificing the agencies’ ability to protect the United States’ water resources.”

**Texas farmer Wesley Spurlock, president of the National Corn Growers Association:** “The goal of the Clean Water Act is to restore and maintain the integrity of the nation’s waters. The 2015 rule moved us further away from that goal. Repealing it is an important first step toward providing farmers the certainty and clarity we have long desired. We are thankful this Administration is working to draw clear lines in terms of what is and what is not jurisdictional under the Clean Water Act. In doing so, they will enable farmers to implement best management practices such as grass waterways and buffer strips without the burden of bureaucratic red tape or fear of legal action. These types of land improvements have enormous water quality benefits, such as reducing sediment and nutrient runoff—a win for farmers and the environment. Government should be making these actions easier, not more difficult. We salute the EPA and Army Corps of Engineers for their efforts. We stand committed to working with these agencies as they develop a new rule that defines jurisdictional boundaries in clear terms that are inclusive of the realities of farming.”

**National Rural Electric Cooperative Association (NRECA) CEO Jim Matheson:** “We appreciate EPA Administrator Pruitt recognizing the need to revisit this overbearing regulation and avoid needless increased costs for millions of electric co-op consumers. As written, the rule would dramatically expand federal oversight of features that only hold water after a rain. This would have increased costs and impaired the ability of co-ops to build and maintain power lines. We encourage EPA and the Army Corps of Engineers to propose a new common-sense rule that recognizes the role of the states, protects the environment, and allows co-ops to continue providing affordable and reliable power.”

**Zippy Duvall, president, American Farm Bureau Federation:** “Farmers and ranchers across this country are cheering EPA’s proposal today to ditch its flawed Waters of the U.S. rule. We know the importance of clean water, and farmers and ranchers work hard to protect our natural resources every day. But this rule was never really about clean water. It was a federal land grab designed to put a straightjacket on farming and private businesses across this nation. That’s why our federal courts blocked it from going into effect for the past two years. Today’s announcement shows EPA Administrator Pruitt recognizes the WOTUS rule for what it is—an illegal and dangerous mistake that needs to be corrected. Farm Bureau looks forward to supporting Administrator Pruitt’s proposal. EPA should ditch this rule once and for all, go back to the drawing board, and write a new rule that protects water quality without trampling the rights of businesses and the states.”

**National Mining Association (NMA) President and CEO Hal Quinn:** “This sets in motion a welcome correction to a deeply problematic regulation that ignored the careful balance that Congress struck between federal and state water regulation and Constitutional limits on federal authority. Under the guise of clarifying federal Clean Water Act jurisdiction, the WOTUS rule impermissibly expanded federal jurisdiction to virtually any standing body of water -- from roadside drainage ditches to local green energy projects. We look forward to working with the administration as it replaces the WOTUS rule with environmentally responsible policies that

provide regulatory clarity for businesses and proper recognition of state authority to manage water quality as Congress intended.”

**Edison Electric Institute (EEI) President Tom Kuhn:** “EEI’s member companies are committed to a healthy environment and to a clean and affordable energy future. By rescinding the problematic Waters of the United States (WOTUS) rule, EPA Administrator Pruitt and the Army Corps of Engineers have taken an important step to reconsider a rule that, if left unchanged, would have triggered substantial new regulatory requirements for critical electric company operations, creating substantial compliance costs. As EEI and allied stakeholders consistently have noted through comments and through our participation in litigation challenging the current WOTUS rule, our industry supports a new rulemaking that more clearly and narrowly defines which waterbodies are subject to federal jurisdiction, and enhances opportunities to streamline energy infrastructure permitting. We also thank EPA and the Army Corps of Engineers for seeking more input from the states on the rulemaking, and look forward to working with their staffs as they review and revise the regulations.”

**National Association of State Departments of Agriculture (NASDA) President and Louisiana Commissioner of Agriculture Michael G. Strain:** “The EPA has sided with state and local governments, farmers, landowners, and small businesses in their decision to rescind this burdensome regulation. The 2015 rule lacked clarity, and was fraught with procedural concerns and violations of congressional intent, making it necessary to start over with a new rule that protects clean water and respects state regulatory authority. State laws and programs partner with EPA, farmers and ranchers, and local entities to protect clean water every day. We look forward to working cooperatively with the EPA in developing – and eventually implementing – a new rule.”

**Environmental Council of the States (ECOS) President John Linc Stine, Commissioner of the Minnesota Pollution Control Agency:** “Today’s proposed rule is a key step in creating an opportunity to develop a regulatory approach to defining waters of the United States in a fully collaborative fashion. We look forward to a productive, results-oriented conversation among states, EPA, the Army Corps of Engineers, and all stakeholders to provide greater regulatory certainty and clarity, and to ensure that waters are protected by an appropriate allocation of state and federal laws, regulations, programs, and resources.”

**\*National Stripper Well Association Chairwoman Darlene Wallace:** “Today’s actions by President Trump in repealing the deeply misguided Waters of the United States rule implemented by the last administration gives NSWA membership cause to celebrate the President keeping his promises and working to protect small businesses and oil and gas producers. The terrible impacts facing small oil and gas producers as a result of the over expansive and unnecessary regulation proposed by the previous administration are wiped away putting another promise kept and another sign that relief for American businesses is on the way. NSWA also wants to thank Administrator Pruitt and all the staff at EPA for their hard work in

delivering this relief for the American workers.”

**\*American Exploration & Mining Association Executive Director Laura Skaer:** “Our members are greatly encouraged to see the Trump administration undo this unnecessary rule and return states’ authority over water regulation and regulatory certainty that is crucial to a prosperous American mining industry. Mining is ready to get back to work and grow communities. Ending this deeply flawed rule allows us to do just that.”

**\*National Cattlemen’s Beef Association President Craig Uden:** "This is another great step in the right direction, and the Administration deserves a great deal of credit for injecting some much-needed common sense into our nation's environmental policies. It's important to remember, though, that this rule isn't dead yet. The rulemaking process continues, and NCBA will submit and solicit additional comments on behalf of America's cattle producers so that they finally get the sanity and clarity they need on land use policy."

**\*Public Lands Council President Dave Eliason:** “We applaud President Trump and Administrator Pruitt for their leadership in repealing the 2015 WOTUS rule. Ranchers in the West are already subject to an elevated level of regulatory overreach, and the WOTUS rule as written would have only made the problem worse. It is reassuring to see the steps that this administration is taking to relieve some of that regulatory burden and provide certainty for our producers.”

John Konkus

Deputy Associate Administrator

Office of Public Affairs

Environmental Protection Agency

Cell: Personal Phone / Ex. 6

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/27/2017 9:16:22 PM  
**To:** Konkus, John [konkus.john@epa.gov]  
**Subject:** FW: WOTUS Statements thru 4pm  
**Attachments:** 6.27.17\_WOTUS.pdf



Message

**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/27/2017 8:43:59 PM  
**To:** Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]  
**Subject:** FW: WOTUS proposed rule  
**Attachments:** Defense of Environment MCC17002.pdf

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**From:** Vaughan, Aubrey (Paul) [mailto:Aubrey\_Vaughan@paul.senate.gov]  
**Sent:** Tuesday, June 27, 2017 4:19 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** WOTUS proposed rule

Hey Tate,

Hope you're doing well! I was excited to see the WOTUS proposed rule today. I haven't finished reading through yet, but I think this would be a good time for us to reintroduce our bill on navigable waters to reinforce Congressional support for EPA's work on this. Is there a good contact I could send our bill language to? I have a question on the impact of a certain section we currently have in the text –

SEC. 3. APPLICABILITY OF AGENCY REGULATIONS AND GUIDANCE.

(a) IN GENERAL.—The following regulations and guidance shall have no force or effect:

[...]

(4) Any subsequent regulation of or guidance issued by any Federal agency that defines or interprets the term “navigable waters” or “waters of the United States”.

(b) PROHIBITION.—The Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency shall not promulgate any rules or issue any guidance that expands or interprets the definition of navigable waters unless expressly authorized by Congress.

Thanks so much,

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**Aubrey Vaughan**  
General Counsel  
Office of Senator Rand Paul  
167 Russell Senate Office Building  
(202) 224-6515

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/27/2017 7:57:23 PM  
**To:** Small, Jeff [Jeff.Small@mail.house.gov]  
**Subject:** RE: Western Caucus Members Support Proposed Rule Rolling Back WOTUS

Awesome! Thank you, Jeff!

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**From:** Small, Jeff [mailto:Jeff.Small@mail.house.gov]  
**Sent:** Tuesday, June 27, 2017 3:55 PM  
**To:** Ringel, Aaron <ringel.aaron@epa.gov>  
**Cc:** Bowman, Liz <Bowman.Liz@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Graham, Amy <graham.amy@epa.gov>  
**Subject:** FW: Western Caucus Members Support Proposed Rule Rolling Back WOTUS

Thank you all again for the excellent news today and your efforts!

Below is the press release from Western Caucus.

Sincerely,

**Jeff Small**

*Executive Director | Congressional Western Caucus*  
*Senior Advisor | Congressman Paul A. Gosar, D.D.S.*  
2057 Rayburn HOB | Washington, DC 20515  
(202) 225-2315 main  
[jeff.small@mail.house.gov](mailto:jeff.small@mail.house.gov)



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**From:** Roberson, Kelly  
**Sent:** Tuesday, June 27, 2017 3:47 PM  
**To:** Roberson, Kelly  
**Cc:** Small, Jeff  
**Subject:** Western Caucus Members Support Proposed Rule Rolling Back WOTUS



**For Immediate Release**  
**Contact:** Kelly Roberson

**Date:** June 27, 2017  
[Kelly.Roberson@mail.house.gov](mailto:Kelly.Roberson@mail.house.gov)

# Western Caucus Members Support Proposed Rule Rolling Back WOTUS

WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04)**, **Executive Vice Chairman Scott Tipton (CO-03)**, **Chief Rules Officer Dan Newhouse (WA-04)**, **Chairman Emeritus Steve Pearce (NM-02)**, **Chief Forestry Officer Bruce Westerman (AR-04)**, **GOP Conference Chairwoman Cathy McMorris Rodgers (WA-05)** and Western Caucus members **Rep. Tom Emmer (MN-06)**, **Rep. Doug Lamborn (CO-05)**, **Rep. Mike Johnson (LA-04)**, **Rep. Raúl Labrador (ID-01)**, **Rep. Marthy McSally (AZ-02)**, **Rep. Ralph Abraham (LA-05)**, **Rep. Roger Marshall (KS-01)**, **Rep. Louie Gohmert (TX-01)**, **Rep. Andy Biggs (AZ-05)**, **Rep. Doug Collins (GA-09)**, **Rep. Markwayne Mullin (OK-02)**, **Rep. Kristi Noem (SD-At Large)**, **Rep. Liz Cheney (WY-At Large)** and **Rep. Kevin Cramer (ND-At Large)** released the following statements in response to the Trump Administration’s release of a proposed rule that will kill the Obama Administration’s “Waters of the United States” (WOTUS) Rule by effectively re-codifying the Clean Water Act as it existed prior to 2015:

“Today’s announcement is excellent news for communities throughout the country,” said **Chairman Gosar**. “The Obama Administration threatened the very livelihoods of farmers, ranchers, small businesses and water users when unilaterally enacting the job-killing WOTUS Rule by executive fiat. The Trump Administration has already made great strides in rolling back this unconstitutional mandate and I am thrilled to see EPA Administrator Pruitt continue that good work with today’s proposed rule. Western Caucus members look forward to working closely with the administration to put a nail in the coffin of Gina McCarthy’s water grab.”

“This announcement from Administrator Pruitt is welcome news. State law and priority-based systems have ensured clean, safe, and reliable water supplies for over a century in Colorado and the West. The WOTUS rule would have usurped long-held state water law and threatened access to private water rights. Western water users will now have much needed certainty while the EPA re-writes the definition of ‘Waters of the United States,’” said **Congressman Tipton**

**Congressman Newhouse** stated, “I applaud the action taken by the EPA and U.S. Army Corps of Engineers to follow up on President Trump’s order to review the intrusive and overreaching Waters of the United States rule. I look forward to working with my colleagues and EPA Administrator Pruitt to replace the ill-conceived WOTUS rule with a commonsense proposal that protects clean water, as well as the water and property rights of farmers, ranchers, small businesses, and water users across the country.”

**Congressman Pearce** remarked, “This is great news for stronger job growth throughout New Mexico. Under the WOTUS Rule, Washington bureaucrats were given complete authority to regulate small streams along with natural and manmade ditches on lands owned by farmers, ranchers, and small businesses. This unlawful expansion of power proposed by the Obama Administration would drive up costs for landowners and cost thousands of jobs. I’m pleased to see the EPA and the Army Corps of Engineers recommit to strengthening rural economies.”

**Congressman Westerman** said, “I am happy that the administration has listened to the concerns of those most impacted by this egregious, unconstitutional overreach by the Environmental Protection Agency. The decision to withdraw the previous administration’s WOTUS rule is a win

for private property rights and will have a positive impact on farmers, ranchers, and other job creators.”

“WOTUS is one of the most burdensome EPA rules of the Obama Administration. You think about the impact it’s had on rural communities, on our cattlemen and farmers—it’s making it more and more difficult for hardworking Americans to be successful,” said **Congresswoman McMorris Rodgers**. “It’s something I’ve heard about frequently in Eastern Washington. Thank you to President Trump and his administration for taking action to ensure this rule no longer targets our rural communities.”

“I am pleased with today’s actions by the Trump Administration to repeal the harmful and overly burdensome WOTUS rule,” said **Congressman Emmer**. “While there is still work to be done to redefine WOTUS, this step gives our nation’s farmers, manufacturers and home builders greater certainty and gets the federal government out of their way. This is a welcome move that will benefit our economy today and for years to come.”

**Congressman Lamborn** said, “The previous administration used the vague language in the WOTUS Rule to harm local communities—including ranchers, farmers, small business owners. I am grateful that this new ruling will establish regulatory certainty and restore order to state and tribal water laws that should have jurisdiction over these bodies of water. I look forward to a revision of this rule that will empower local landowners instead of giving power solely to the federal government.”

**Congressman Johnson** remarked, “The so called ‘WOTUS Rule’ was a gross overreach by the Obama Administration and put mud puddles and backyard ditches under government control. Farmers and every day Americans all across the country have been subjected to new, burdensome regulations that kill jobs and further hinder the economy. Removing this rule will restore common sense to water regulation and return power back to the states and to the people.”

**Congressman Labrador** stated, “I applaud the Trump administration for continuing to roll back excessive regulations that are harming Idaho’s businesses and communities. I strongly opposed the previous administration’s ‘WOTUS’ rule and I worked with my colleagues on a legislative fix. Regulatory reform is critical to Idaho’s economy, and I appreciate the administration for continuing to show leadership on these types of issues.”

“WOTUS is a sweeping regulation written by unelected bureaucrats that would give the EPA jurisdiction over any type of body of water on private land—lakes, ponds, creeks, and even desert washes,” remarked **Congresswoman McSally**. “I have heard from countless small businesses, farmers, and ranchers that this rule prevents them from doing their job, which is why I led dozens of my colleagues in Congress in writing to the Administration in February urging the President to reverse this rule for the sake of Southern Arizona and communities throughout the United States. I am pleased with the EPA’s decision to repeal the harmful WOTUS rule—and I know that Americans across the country are relieved by this news.”

“I represent one of the largest row crop districts in the nation, and nearly every farmer I talk to wants this rule repealed,” stated **Congressman Abraham**. “As an active farmer myself, I understand and share their frustrations with WOTUS. Today’s news is a welcomed relief for farmers around this country, and I thank President Trump and Administrator Pruitt for the actions they’ve taken so far to repeal this terrible rule.”

“I commend and thank the Trump Administration for their decisive and effective actions to repeal the misguided Waters of the United States rule,” said **Congressman Marshall**. “As Kansas

farmers, ranchers, businesses and even municipalities know all too well, WOTUS dramatically expanded the reach of the federal government with minimal improvements in water quality. Today's announcement serves as a tremendous relief to Kansans and provides the regulatory certainty we need to grow. This is yet another exciting step in fulfilling this Administration and Congress' promise to return government to its proper role."

**Congressman Gohmert** said, "Washington bureaucrats in cubicles should not be deciding the fate of our waterways, nor should they be allowed to completely and arbitrarily control the economic fate of landowners even to the point of ending their ability to make a living. Unelected bureaucrats have, for years, been enviously dreaming of the day they could control American landowners' property by the backdoor methods of completely controlling everything involving water on or near the land. Repealing the Obama Administration's WOTUS Rule is essential in getting the federal government out of everyday farming operations. It is neither right nor fair to subject producers and landowners to jurisdictional protocols and extraordinary levels of compliance charges. Today the EPA took a giant step forward in safeguarding the water rights of hard-working Americans and ending the federal power grab the Obama Administration engineered. It is a victory for those who love liberty and something called private property."

**Congressman Biggs** stated, "I applaud Administrator Pruitt for his proposal to repeal the Waters of the United States (WOTUS) Rule, which was one of the most onerous rules from the Obama administration. WOTUS was opposed by over 200 organizations and local communities and would have had devastating effects on western states, including Arizona. This action provides another example that the Trump administration favors freedom and prosperity for our economy over regulatory outreach, and we join the administration in their efforts."

"Northeast Georgia farmers, ranchers, and small businesses are natural conservationists who have been overburdened by the illogical Waters of the United States regulation," said **Congressman Doug Collins**. "I applaud the Army Corps of Engineers and Environmental Protection Agency for their move to repeal the WOTUS rule in favor of statutes that actually serve our communities and steward their natural resources wisely."

"Since the previous administration put the WOTUS Rule in place, I have been fighting tooth and nail to overturn it," **Congressman Mullin** said. "The harmful effects it has on our farmers, ranchers, and small businesses are felt nationwide. Moreover, the WOTUS Rule allowed Washington bureaucrats to regulate the streams and creeks in the backyards of Oklahomans, when in reality these bureaucrats don't know the first thing about a backyard like mine." "The rule proposed today by the EPA and Army Corps of Engineers delivers the long overdue relief from this unlawful water grab that our farmers and ranchers desperately need. I'm grateful to EPA Administrator Scott Pruitt for acting swiftly to repeal this misguided rule."

"Under the Obama-era WOTUS rule, treating your lawn for mosquitos, putting up a fence in your backyard or spraying your crops could become federally regulated activities that carry substantial fines if violations occur – knowingly or unknowingly. The Trump administration is right to propose a repeal," said **Congresswoman Noem**.

**Congresswoman Cheney** remarked, "The Clean Water Rule was a power grab by the Obama Administration that attempted to expand federal control and regulations well beyond the initial scope of Waters of the U.S. The rule threatened the loss of precious resources for hardworking ranchers and farmers in Wyoming, and if left unchecked, would have devastated our rural economy. I am pleased to see EPA Administrator Pruitt and the Army Corps of Engineers taking these steps to return power to the states and provide them with regulatory certainty. I also remain

committed to working in Congress towards a full repeal of burdensome regulations imposed by the previous administration.”

“Today’s action marks the end of step one in a two-step process to undo the Obama Administration’s overreach to even further expand the federal government’s control of our land. This regulatory relief is not only important to our farmers, ranchers, and energy producers, but any individual or business wanting to undertake a construction project. Reestablishing the federal government’s role to only navigable waters under any reasonable person’s definition will help unleash economic development and put power back in the hands of the people closest to a project’s impact,” said **Congressman Cramer**.

## **Background:**

### ***(Courtesy of the EPA)***

Today, the Environmental Protection Agency, the Department of Army, and the Army Corps of Engineers (the agencies) released a proposed rule to rescind the Clean Water Rule and re-codify the regulatory text that existed prior to 2015 defining "waters of the United States" or WOTUS. For the pre-publication Federal Register Notice and additional information click [HERE](#).

This action would, when finalized, provide certainty in the interim, pending a second rulemaking in which the agencies will engage in a substantive re-evaluation of the definition of "waters of the United States." The proposed rule would be implemented in accordance with Supreme Court decisions, agency guidance, and longstanding practice.

This proposed rule follows the February 28, 2017, Presidential Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The February Order states that it is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution. To meet these objectives, the agencies intend to follow an expeditious, two-step process that will provide certainty across the country.

The proposed rule would recodify the identical regulatory text that was in place prior to the 2015 Clean Water Rule and that is currently in place as a result of the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. Therefore, this action, when final, will not change current practice with respect to how the definition applies.

The agencies have also begun deliberations and outreach on the second step rulemaking involving a re-evaluation and revision of the definition of "waters of the United States" in accordance with the President Trump’s Executive Order.

### ***(Courtesy of the Congressional Western Caucus)***

On February 28, 2017, President Trump signed Executive Order 13778 requiring the Administrator of the Environmental Protection Agency (EPA) and the Assistant Secretary of the Army for Civil Works to review the Obama Administration’s Waters of the United States (WOTUS) Rule and rescind any aspect of WOTUS inconsistent with federal law in order to ensure economic growth, restore the Rule of Law and minimize regulatory uncertainty. The text

of Executive Order 13778 can be found [HERE](#). A press release from the Congressional Western Caucus praising this action can be found [HERE](#).

On March 25, 2014, the EPA and the Corps released a proposed rule that would assert Clean Water Act jurisdiction over nearly all areas with even the slightest of connections to water resources, including man-made conveyances.

WOTUS was slated to go into effect August 28, 2015. Fortunately, the Sixth Circuit [issued a nationwide stay](#) and temporarily blocked implementation of this rule.

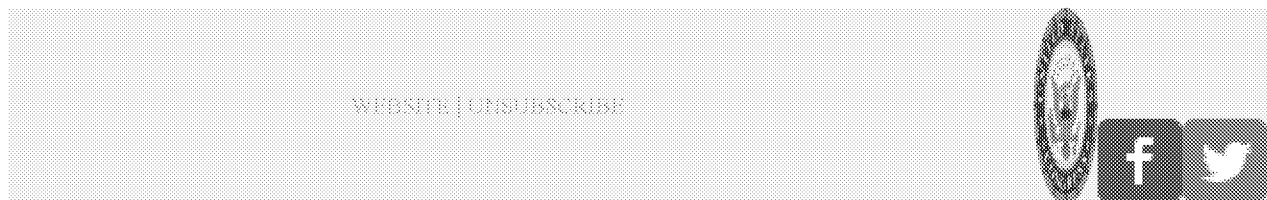
The Obama Administration's WOTUS Rule would cause significant harm to rural Americans throughout the country, including farmers, ranchers, small businesses, water users and other property owners. This flawed mandate directly contradicts prior U.S. Supreme Court decisions, which imposed limits on the extent of federal Clean Water Act authority. More than 200 organizations and local municipalities have publicly declared their opposition to the proposed WOTUS rule as a result.

The Heartland Institute has stated, "In reality, the language of the EPA rule is so vague this 'clarification' could grant Washington, D.C. jurisdiction over any body of water anywhere. It was to apply to any water or wetland deemed to have a 'significant nexus' to any navigable waterway, with the significant nexus, as described by a Wall Street Journal editorial, so widely interpreted as to include 'any creek, pond or prairie pothole' and 'any land within a 100-year floodplain and 1,500 feet of the high water mark or, alternatively, within the 100-year floodplain and 4,000 feet of waters within their claimed jurisdiction.' Essentially, the WOTUS rule would put EPA in charge of every piece of land occasionally containing any amount of concentrated water, practically down to the puddle level."

On May 12, 2015, the House passed H.R. 1732, the Regulatory Integrity Protection Act, by a vote of 261-155. This critical legislation required the EPA and Corps of Engineers to formally withdraw the agencies' proposed rule that would redefine WOTUS and any subsequent final rule. Chairman Gosar and multiple members of the Western Caucus joined the Chairman of the House Transportation and Infrastructure Committee Bill Shuster in introducing this bill. Click [HERE](#) to read more.

In July 2015, Chairman Gosar [submitted revelatory evidence](#) into the Congressional Record from senior Army Corps of Engineer employees that expressed serious legal and scientific deficiencies with the Obama Administration's WOTUS rule.

###



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Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/26/2017 2:14:27 PM  
**To:** Kaliszewski, Bob [Robert.Kaliszewski@ct.gov]; Klee, Robert [Robert.Klee@ct.gov]  
**Subject:** RE: Head's up on recent letters from CT to EPA

Will do. Thanks!

-----Original Message-----

From: Kaliszewski, Bob [mailto:Robert.Kaliszewski@ct.gov]  
Sent: Monday, June 26, 2017 9:48 AM  
To: Bennett, Tate <Bennett.Tate@epa.gov>; Klee, Robert <Robert.Klee@ct.gov>  
Subject: RE: Head's up on recent letters from CT to EPA

Tate, thanks for taking care of this, we did intend it be filed in the docket, it looks like it was email at about 4pm on the last day so might have been missed. Appreciate your help.  
Regards, Bob

Robert E. Kaliszewski  
Deputy Commissioner  
Environmental Quality Branch  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street, Hartford, CT 06106-5127  
P: 860.424.3097(E: robert.kaliszewski@ct.gov)

[www.ct.gov/deep](http://www.ct.gov/deep)

Conserving, improving and protecting our natural resources and environment;  
Ensuring a clean, affordable, reliable, and sustainable energy supply.

-----Original Message-----

From: Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
Sent: Saturday, June 24, 2017 7:40 PM  
To: Klee, Robert  
Cc: Kaliszewski, Bob  
Subject: Re: Head's up on recent letters from CT to EPA

I figured that or it was backdated for a reason. You're good. Thanks guys.

> On Jun 24, 2017, at 6:57 PM, Klee, Robert <Robert.Klee@ct.gov> wrote:  
>  
> That was our intent. I believe we filed it on the last day of the docket... Bob K can confirm. Thanks for asking.

>  
>  
>  
>  
>  
> -----

> Robert J. Klee  
> Commissioner  
> CT Department of Energy and Environmental Protection

> \_\_\_\_\_  
> From: Bennett, Tate <Bennett.Tate@epa.gov>  
> Sent: Saturday, June 24, 2017 6:37:24 PM  
> To: Klee, Robert  
> Cc: Kaliszewski, Bob  
> Subject: Re: Head's up on recent letters from CT to EPA

>  
> Rob-  
>

> Just to clarify, is the WOTUS letter something you were hoping to get included in the docket? It technically closed last Monday and I don't see it in there.

>

> Let me know.

>

> Tate

>

> On Jun 22, 2017, at 2:49 PM, Klee, Robert <Robert.Klee@ct.gov<mailto:Robert.Klee@ct.gov>> wrote:

>

> Ken and Tate,

>

> I just wanted to drop a quick note to make sure you and Administrator Pruitt are aware of two recent letters - one from my Governor, and one from me - that Connecticut sent to the Administrator regarding recent EPA actions on ozone and WOTUS. Electronic copies are attached.

>

> We continue to appreciate the collaborative relationship that Connecticut shares with EPA staff in Region 1, and we appreciate your willingness at EPA headquarters to engage on issues of significance to Connecticut.

>

> The health and economic impacts of ozone transport and non-attainment is a subject of particular concern here in Connecticut, and my Governor speaks directly and passionately about it every chance he gets. The delay in the designation phase of the 2015 ozone NAAQS puts Connecticut at an economic disadvantage against states that ignore critical air quality issues, and prolongs the risk of illness for thousands of residents in our state. We strongly oppose this decision to delay.

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> On WOTUS, we believed the 2015 rule was protective of vital intermittent headwaters, and dovetailed nicely with our existing state law. As a merged energy, environment, natural resource, and outdoor recreation agency, we take a holistic view of our entire suite of water resources and their importance to public health, ecological health, recreation and commerce - and we recognize the vulnerability of these water resources to a changing climate. We believe WOTUS protects Connecticut's water and wetland resources, and we definitely would not want to see any changes that would undermine flexibility or recognition of regional circumstances and needs.

>

> Please let me know if you have any questions. Deputy Commissioner Kaliszewski and I would be more than happy to discuss any of these matters.

>

> Cheers,

>

> Rob

>

> PS -- I also attach a four state letter from CT, VT, RI, and MA regarding the proposed EPA budget, which you may have already received from CONEG. We'd also welcome the chance to engage on budget issues, as appropriate.

>

> Robert J. Klee

> Commissioner

> Connecticut Department of Energy and Environmental Protection

> 79 Elm Street, Hartford, CT 06106-5127

> P: 860.424.3571 | F: 860.424.4051 | E:

> robert.klee@ct.gov<mailto:robert.klee@ct.gov>

>

> [cid:image003.png@01D2EB66.94C3FEF0]

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> <CTozone respons.pdf>

> <CT WOTUS response.pdf>

> <NECOE Ltr to EPA 6-14-17.pdf>

Message

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/24/2017 11:39:54 PM  
**To:** Klee, Robert [Robert.Klee@ct.gov]  
**CC:** robert.kaliszewski@ct.gov  
**Subject:** Re: Head's up on recent letters from CT to EPA

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> Commissioner  
> CT Department of Energy and Environmental Protection

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> From: Bennett, Tate <Bennett.Tate@epa.gov>  
> Sent: Saturday, June 24, 2017 6:37:24 PM  
> To: Klee, Robert  
> Cc: Kaliszewski, Bob  
> Subject: Re: Head's up on recent letters from CT to EPA

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> Tate

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> Robert J. Klee  
> Commissioner  
> Connecticut Department of Energy and Environmental Protection  
> 79 Elm Street, Hartford, CT 06106-5127  
> P: 860.424.3571|F: 860.424.4051 |E: robert.klee@ct.gov<mailto:robert.klee@ct.gov>

> [cid:image003.png@01D2EB66.94C3FEF0]

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> Ensuring a clean, affordable, reliable, and sustainable energy supply.

>  
>  
> <CTozone respons.pdf>  
> <CT WOTUS response.pdf>  
> <NECOE Ltr to EPA 6-14-17.pdf>

Message

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/24/2017 10:38:04 PM  
**To:** Hanson, Andrew [Hanson.Andrew@epa.gov]  
**Subject:** Fwd: Head's up on recent letters from CT to EPA

Can't help it!

Begin forwarded message:

**From:** "Bennett, Tate" <Bennett.Tate@epa.gov>  
**Date:** June 24, 2017 at 6:37:24 PM EDT  
**To:** "Klee, Robert" <Robert.Klee@ct.gov>  
**Cc:** "robert.kaliszewski@ct.gov" <robert.kaliszewski@ct.gov>  
**Subject:** Re: Head's up on recent letters from CT to EPA

Rob-

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Let me know.

Tate

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<CTozone respons.pdf>

<CT WOTUS response.pdf>

<NECOE Ltr to EPA 6-14-17.pdf>

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/24/2017 10:37:24 PM  
**To:** Klee, Robert [Robert.Klee@ct.gov]  
**CC:** robert.kaliszewski@ct.gov  
**Subject:** Re: Head's up on recent letters from CT to EPA

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<CTozone respons.pdf>

<CT WOTUS response.pdf>

<NECOE Ltr to EPA 6-14-17.pdf>



Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/24/2017 4:54:51 AM  
**To:** Dominguez, Alexander [dominguez.alexander@epa.gov]  
**Subject:** FW: WOTUS Washington State's comments  
**Attachments:** 20170618071239108.pdf

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**From:** Bennett, Tate  
**Sent:** Tuesday, June 20, 2017 9:51 AM  
**To:** 'Cory, Preston' <Preston.Cory@mail.house.gov>  
**Subject:** FW: WOTUS Washington State's comments

---

**From:** Ricketts, Sam (GOV) [mailto:Sam.Ricketts@gov.wa.gov]  
**Sent:** Tuesday, June 20, 2017 9:40 AM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** FW: WOTUS Washington State's comments

Tate - Here are WA's comments on WOTUS rulemaking.. thanks

---

**From:** North, Teri (ECY) **On Behalf Of** Bellon, Maia (ECY)  
**Sent:** Monday, June 19, 2017 6:23 PM  
**To:** [CWAwotus@epa.gov](mailto:CWAwotus@epa.gov)  
**Cc:** Millar, Roger; Sandison, Derek (AGR); Unsworth, James W (DFW); Franz, Hilary (DNR); [hanson.andrew@epa.gov](mailto:hanson.andrew@epa.gov); Clifford, Denise (ECY); Bartlett, Heather (ECY)  
**Subject:** WOTUS Washington State's comments

Attached please find Washington State's comments to the Waters of the United States rule development per the Environmental Protection Agency's request of May 8, 2017.

Thank you for your consideration.

*Teri North, Assistant to the Director  
Department of Ecology  
(360) 407-7009  
[teri.north@ecy.wa.gov](mailto:teri.north@ecy.wa.gov)*

Message

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/24/2017 3:26:46 AM  
**To:** Dominguez, Alexander [dominguez.alexander@epa.gov]  
**Subject:** Fwd: WOTUS Washington State's comments  
**Attachments:** 20170618071239108.pdf; ATT00001.htm

Begin forwarded message:

**From:** "Bennett, Tate" <Bennett.Tate@epa.gov>  
**To:** "Cory, Preston" <Preston.Cory@mail.house.gov>  
**Subject:** FW: WOTUS Washington State's comments

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**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
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Department of Ecology  
(360) 407-7009  
[teri.north@ecy.wa.gov](mailto:teri.north@ecy.wa.gov)*

**To:** Cory, Preston (Katherine)[Cory.Preston@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Sat 6/24/2017 2:27:25 AM  
**Subject:** Re: Friday Update

This is an awesome one stop shop for an update. Busy day!

Wonder if Layne knows the Idaho man?

We can debrief offline on **Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Did you get his calendar email?

Thanks for a great week!

On Jun 23, 2017, at 4:08 PM, Cory, Preston (Katherine) <[Cory.Preston@epa.gov](mailto:Cory.Preston@epa.gov)> wrote:

Spoke with **Rep. Herrell** and **Rep. Townsend** of New Mexico along with General Counsel at HollyFrontier. Topics we covered:

- 1) RVO formula adjustment as they feel it makes assumptions that penalizes certain companies/ affects employers that rely heavily on industry for economic vitality
- 2) Point of Obligation- would like to see Obama's proposed denial of point of obligation withdrawn (I could not provide them with any status on that or whether that possibility has come up)
- 3) Want to see level playing field with RINs as they are costing the industry in New Mexico \$300mil annually
- 4) Would like to see RFS obligated parties statute changed and have RFS address the blend wall

Want to have another call with larger party and you next week. I relayed we are well on track with RVO deadline in November and that is at the attention of ESP.

Other items:

Got list of LGAC Vacancies from Fran. Chair Bob Dixon (R-Kansas) interested in continuing as chair. Commissioner Cope (R-ID) also wants to continue in his role. Will look into rest of those eligible/ interested and forward you her email.

**Gov. Ricketts** WOTUS takeaways:

- Supports clear and predictable standard for states, support further definition of relatively permanent streams and allow for regional discrepancy
- Not regulate irrigation, agriculture waters

**Gov. Reynolds**

- Relatively permanent streams should be limited to perennial rivers/ streams and permanent lakes and wetlands that are adjacent
- Frustrated with delays in jurisdictional determinations as a result of WOTUS

Let me know about Deliberative Process / Ex. 5 and how I can help with the memo when you have time.

Thanks,

Preston

Message

---

**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/23/2017 9:10:52 PM  
**To:** chris.skates@ky.gov  
**Subject:** FYI here is our working draft  
**Attachments:** NS2017- 066 WOTUS Rollback.doc; ATT00001.htm

**To:** Ringel, Aaron[ringel.aaron@epa.gov]  
**Cc:** Lyons, Troy[lyons.troy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Konkus, John[konkus.john@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Fri 6/23/2017 12:49:38 PM  
**Subject:** Re: RE: RE:

## Deliberative Process / Ex. 5

> On Jun 23, 2017, at 8:46 AM, Ringel, Aaron <ringel.aaron@epa.gov> wrote:  
>

## Deliberative Process / Ex. 5

>  
> -----Original Message-----  
> From: Bennett, Tate  
> Sent: Friday, June 23, 2017 8:45 AM  
> To: Ringel, Aaron <ringel.aaron@epa.gov>  
> Cc: Lyons, Troy <lyons.troy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
> Subject: Re: RE:

> Would we be **Deliberative Process / Ex. 5**?

>> On Jun 23, 2017, at 8:43 AM, Ringel, Aaron <ringel.aaron@epa.gov> wrote:

>> We could also set it up **Deliberative Process / Ex. 5**

## Deliberative Process / Ex. 5

**Deliberative Process / Ex. 5** Thoughts?

>>  
>> -----Original Message-----  
>> From: Lyons, Troy  
>> Sent: Thursday, June 22, 2017 9:08 PM  
>> To: Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
>> Subject: RE:

>> Awesome. Let us know when it is appropriate to **Deliberative Process / Ex. 5**

## Deliberative Process / Ex. 5

>> -----Original Message-----  
>> From: Jackson, Ryan  
>> Sent: Thursday, June 22, 2017 9:05 PM  
>> To: Bowman, Liz <Bowman.Liz@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Dravis, Samantha

<dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>

>> Subject:

>>

>

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5** Let's tee up the support and press.

>>

>>

>> \_\_\_\_\_  
>> Ryan Jackson

>> Chief of Staff

>> U.S. EPA

>>

**Ex. 6**

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/20/2017 10:23:29 PM  
**To:** Eargle, Frances [Eargle.Frances@epa.gov]  
**Subject:** FW: Administrator's Meeting w/ LGAC  
**Attachments:** AdminPruittTP's-LGAG.docx; LGAC Updated Roster 2017 -May 2017.docx; Biographies(2) -LGAC 2017 Members-05-17.docx; LGAC-WOTUS-Charge-05-17-17-.pdf; LGAC Meeting-June22-2017-Administrator Request Form.docx; LGACWaterWG-AGENDA-June22-2017.docx

Is there any chance we can talk on the phone to the Water group on Thursday (and nix the 29) to greet them for 5 min any time between 4:30 and 5:30?

---

**From:** Eargle, Frances  
**Sent:** Tuesday, June 20, 2017 6:14 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** FW: Administrator's Meeting w/ LGAC

Hi Tate,

Jack and I spoke this afternoon re: Administrator meeting with the LGAC. Maddy indicated that the Administrator has a conflict for the LGAC June 29<sup>th</sup> meeting.

I wanted to throw out a better option is for the Administrator to join the Water Workgroup call on Thursday, June 22<sup>nd</sup>, 4:30-5:30 for 5 minutes. This is a closed meeting with LGAC Members only. Press are not invited. This would be a greater opportunity for the LGAC to meet with him in a more relaxed setting without the press.

The June 29<sup>th</sup> meeting advertised in the Federal Register with 'Waters of the U.S.' as a topic that we could have anyone calling in. It is all manageable but the June 22<sup>nd</sup> Workgroup meeting might be a better option anyway. He can thank the Committee and speak openly with them.

I know it is short notice. But here is a Meeting request form, an agenda (with the Administrator, a set of Talkers and other attachments (roster, bio's and charge) just in case we can make that happen.

Thanks!!

Fran Eargle  
202-564-3115

---

**From:** Eargle, Frances  
**Sent:** Monday, June 19, 2017 11:12 AM  
**To:** Bowles, Jack <Bowles.Jack@epa.gov>  
**Subject:** Administrator's Meeting Request and TPs -June 22nd LGAC Protecting America's Waters WG

Jack,

Here is a Meeting Request for Administrator to give brief remarks to the LGAC June 22<sup>nd</sup> Protecting America's Waters Workgroup. Also, I have a draft set of Talking Points that I worked on over the weekend.

Because we are so short on time, I am providing all of this at one time.



Attachments:

- Meeting Request -Administrator June 22<sup>nd</sup> LGAC Water Workgroup
- Draft Water Workgroup Agenda
- Draft Talking Points
- LGAC Roster
- LGAC Biographies
- LGAC WOTUS Charge

When will we know something?

Thanks,

*Fran*

Message

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**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/20/2017 9:29:00 PM  
**To:** Cory, Katherine [cory.katherine@epa.gov]  
**Subject:** Fwd: Kentucky Comments on WOTUS Definition  
**Attachments:** WOTUS federalism comments from Kentucky.pdf; ATT00001.htm

Begin forwarded message:

**From:** "Snaveley, Charles (EEC Cabinet Secretary)" <[Charles.Snaveley@ky.gov](mailto:Charles.Snaveley@ky.gov)>  
**Date:** June 19, 2017 at 11:56:41 AM EDT  
**To:** "[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Cc:** "Veatch, Leeann (Gov Office)" <[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)>, "Horne, John (EEC)" <[John.Horne@ky.gov](mailto:John.Horne@ky.gov)>  
**Subject:** Kentucky Comments on WOTUS Definition

Ms. Bennett, please find attached the Commonwealth of Kentucky's comments, as requested by Administrator Pruitt, on the definition of WOTUS. Please share with the Administrator, and thanks to all of you for the opportunity to participate.

Charles G. Snaveley  
Secretary  
Energy and Environment Cabinet

**To:** Cory, Katherine[cory.katherine@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Tue 6/20/2017 7:57:14 PM  
**Subject:** FW: Follow Up  
[EPA-WOTUS Letter.pdf](#)  
[ATT00001.htm](#)

**From:** Wagner, Kenneth  
**Sent:** Tuesday, June 20, 2017 3:54 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Subject:** Fwd: Follow Up

Attached is a letter from Arkansas Gov. Hutchinson re: WOTUS...

Please incorporate!

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

*For Regional and State Affairs*

**U S Environmental Protection Agency**

**202-564-1988 office**

Personal Phone / Ex. 6 **cell**

**wagner.kenneth@epa.gov**

Begin forwarded message:

**From:** "Osborne, Caleb" <osbornec@adeq.state.ar.us>  
**Date:** June 20, 2017 at 1:27:51 PM CDT  
**To:** "'wagner.kenneth@epa.gov'" <wagner.kenneth@epa.gov>  
**Subject:** Follow Up

Ken,

It was great to meet you yesterday. We were pleased to have the opportunity to spend time with you discussing our agency and the priorities we are pursuing. As a follow up to our discussion, attached is a letter from Gov. Hutchinson regarding EPA's efforts on a new Waters of the United States definition. This letter was submitted by his staff yesterday. If you have any questions or need anything, please let me know.

Best,  
Caleb

Caleb J. Osborne

Associate Director, Office of Water Quality

Arkansas Dept. of Environmental Quality

(o) 501-682-0655

(C) **Personal Phone / Ex. 6**

[osbornec@adeq.state.ar.us](mailto:osbornec@adeq.state.ar.us)

Message

**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/20/2017 7:56:43 PM  
**To:** Amanda.stamper@ky.gov  
**Subject:** Info

Amanda- see below. We will likely keep a close hold on the announcement until next week, but just wanted to make sure you had the info you need for anything you might want to do press-wise.

- The Environmental Protection Agency is proposing to withdraw the controversial 2015 Waters of the U.S. Rule. A proposed rule to withdraw WOTUS will be published in the Federal Register, with a deadline for submission of public comments.
- On February 28, 2017, President Trump issued an Executive Order directing the Administrator of the EPA and the Assistant Secretary of the Army for Civil Works to review the Clean Water Rule and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.
- Withdraw of the 2015 rule is the first step in a twostep process. 1) Withdraw 2) Later this year, Administrator Pruitt will propose a new clarifying, applicable WOTUS rule that is within the regulatory limits approved by Congress and that will have been drafted in consultation with various stakeholders directly impacted by the rule.
- KY Environment Cabinet recently met with Pruitt on this, among others, issue.
- The previous Administration and Gina McCarthy failed to listen to Kentucky's concerns when drafting the rule and instead created widespread confusion for countless rural stakeholders and industries, including agriculture. Under the 2015 rule, the smallest pond or ditch could be declared federal waterways.
- The previous rule would have had a regulatory impact of up to \$1.2 billion dollars.

## Lexington Herald Leader Op-Ed: Clean Water Rule Just More Outrageous Government Overreach

Wednesday, June 17, 2015

By: Sens. Rand Paul and Mitch McConnell

By now it should be clear to all that the Obama administration's regulators at the EPA are no friends to Kentucky. They've already been waging a war on coal for years here, and now comes the latest salvo in the Environmental Protection Agency's assault: a rule known as Waters of the U.S. (WOTUS) that would classify nearly all wetlands, including small ponds and ditches, as "navigable" waters and thus subject to interference from Washington.

If this rule is allowed to take effect, it would wreak havoc on the coal, agriculture, commercial development, real estate, construction and contracting industries statewide. It would hurt traditional farming practices. And it would trample upon many Kentuckians' private property rights.

Although the EPA claims the mandate of the Clean Water Act in promulgating this rule, it is really about controlling and putting limits on private land use. The rule would extend to any small pond or ditch that holds water, infiltrates groundwater or is used by animals, birds, or insects. In short, it is a colossal act of government overreach.

The rule will force landowners, homebuilders, farmers, mine operators, manufacturers, utility providers, state and local governments and a host of other property owners to seek permits from Washington bureaucrats before they can begin a wide range of development projects or activities, even activities as simple as building fences or spraying and pulling weeds.

Forcing more areas not previously regulated to go through the permitting process just because ditches or streams are present will only discourage individual property and business owners from expanding their businesses. Many property owners across a variety of industries, faced with the uncertainty of EPA approval, will choose to forego new projects altogether, slowing down our economy even more at a moment when the nation is still struggling through a recovery.

Not only will this regulation cause economic uncertainty, but the EPA's own estimates show that the expensive, time-consuming permitting process will cost Americans between \$158 million and \$465 million a year. This is money that could be used to grow businesses and create much-needed jobs.

A cautionary tale can be found in the story of Andy Johnson, a farmer who built a stock pond on his eight-acre Wyoming farm. He spent hours building it and filling it with fish, ducks and geese. Now the EPA is claiming that he violated the Clean Water Act by building the pond without a permit and is threatening to fine him \$75,000 — a day.

Outrageous assaults like these cannot be allowed to continue. The Kentucky Farm Bureau agrees, saying their review of the ruling is that Washington "took an already bad rule and made it worse" and that "as a result of the new WOTUS rule, [Kentucky] farmers only have greater uncertainty about how they can work their land, face more overall regulation and will have to combat potentially frivolous litigation."

It's time to stop Washington bureaucrats from telling us how to use our properties for no other reason than that they think they can. That's why we are leading the fight against these busybodies and working together to restore property rights and promote economic freedoms.

Together, we have reintroduced the Defense of Environment and Property Act, which would rein in the EPA by limiting its federal jurisdiction to only those waters that are actually navigable and return control over local waters to state governments.

The EPA continues to cause serious damage to our state with its war on coal. It's estimated that a new rule governing greenhouse gases from existing coal-fired power plants will cause wholesale electricity prices to spike by as much as 18 percent.

We can't let it regulate every ditch and stream in Kentucky, too.

If the EPA can do this, there may be no limit to what it can do. Vigilance against government overreach is the price of freedom.

## Kentucky joins eight states in lawsuit against EPA

Suing over Waters of the United States rules

## Suing over Waters of the United States rules

FRANKFORT, Ky. (June 30, 2015) — Attorney General Jack Conway today announced that he has joined eight other state Attorneys General in a lawsuit asking a federal court to strike down a new rule from the U.S. Army Corps of Engineers and Environmental Protection Agency (EPA) that unlawfully expands the federal government's regulatory reach over local streams, lands and farms.

The rule, known generally as the "Waters of the United States" (WOTUS) rule, would extend the EPA and Corps of Engineers' regulatory reach to an untold number of small bodies of water; including roadside ditches, short-lived streams and any other area where the agencies believe water may flow once every 100 years.

"In order to best protect the citizens, farmers, and the taxpayers of the commonwealth, I am challenging this overreaching rule imposed by the EPA," Conway said. "This finalized rule, in my opinion, is illegal. This overly burdensome rule flies in the face of the tradition of environmental regulation, which is to allow states to develop their own responses in how they deal with what's required by the Clean Water Act. By challenging this rule, we continue to fight a long-term battle regarding an overreach by the EPA under this administration."

This rule could have dire consequences for homeowners, farmers and other entities by forcing them to navigate a complex federal bureaucracy and obtain costly permits in order to perform everyday tasks like digging ditches, building fences or spraying fertilizers. Failure to comply with these new regulations could result in fines of up to \$37,500 a day.

In the complaint filed today in U.S. District Court for the Southern District of Georgia, the Attorneys General of West Virginia, Alabama, Florida, Georgia, Kansas, Kentucky, South Carolina, Utah and Wisconsin argue the final rule put forward by the EPA and Corps of Engineers violates the Clean Water Act, the Administrative Procedure Act and the U.S. Constitution, and usurps the states' primary responsibility for the management, protection and care of intrastate waters and lands.

The complaint asks a federal judge to declare the rule illegal and issue an injunction to prevent the agencies from enforcing it. It also asks the judge to order the agencies to draft a new rule that complies with the law.

While the Clean Water Act gave the EPA and Corps authority to regulate "navigable waters"—defined as "Waters of the United States"—Congress made sure that states would retain their constitutional, sovereign responsibility over non-navigable, intrastate lands and waters. This latest rule written by the two administrative agencies, gives them virtually limitless power over these waters. The U.S. Supreme Court has twice rejected the agencies' attempts to expand their authority (in *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers* and *Rapanos v. United States*).

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/20/2017 7:07:39 PM  
**To:** Cory, Katherine [cory.katherine@epa.gov]  
**Subject:** FW: ECOS Letter to Administrator Pruitt Regarding Waters of the U.S.  
**Attachments:** FINAL ECOS June 19 WOTUS Letter.pdf

**From:** Alexandra Dapolito Dunn [mailto:adunn@ecos.org]  
**Sent:** Monday, June 19, 2017 5:05 PM  
**To:** michael.j.price34.mil@mail.mil; CWAwotus <CWAwotus@epa.gov>; Pruitt, Scott <Pruitt.Scott@epa.gov>  
**Cc:** Hanson, Andrew <Hanson.Andrew@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Bangerter, Layne <bangerter.layne@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; David.F.Dale@usace.army.mil; Donald.e.jackson@usace.army.mil; Moyer, Jennifer A HQ02 <jennifer.a.moyer@usace.army.mil>; Stine, John (MPCA) <john.stine@state.mn.us>; Martha Rudolph <martha.rudolph@state.co.us>; keogh@adeq.state.ar.us; Todd Parfitt <todd.parfitt@wyo.gov>  
**Subject:** ECOS Letter to Administrator Pruitt Regarding Waters of the U.S.

Dear Administrator Pruitt:

On behalf of the ECOS Officers - John Linc Stine of Minnesota, Todd Parfitt of Wyoming, Becky Keogh of Arkansas, and Martha Rudolph of Colorado - and all the ECOS Members - I am pleased to transmit to you the attached letter in response to the federalism consultation on Waters of the United States.

We very much look forward to our continuing collaboration with you.

Sincerely yours,

*Alexandra Dapolito Dunn, Esq.*

*Executive Director & General Counsel*

*Environmental Council of the States*

50 F Street, NW, Suite 350

Washington, DC 20001

202-266-4929 (T), Ex. 6 (C); 202-266-4937 (F)

adunn@ecos.org; Twitter @ECOStates

See my research: <http://ssrn.com/author=1356207>

Save the Date! ECOS' State Environmental Protection (STEP) Meeting, 7/17/17, Washington, DC, [www.ecos.org](http://www.ecos.org)



Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/20/2017 1:51:26 PM  
**To:** Cory, Preston [Preston.Cory@mail.house.gov]  
**Subject:** FW: WOTUS Washington State's comments  
**Attachments:** 20170618071239108.pdf

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**From:** Ricketts, Sam (GOV) [mailto:Sam.Ricketts@gov.wa.gov]  
**Sent:** Tuesday, June 20, 2017 9:40 AM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** FW: WOTUS Washington State's comments

Tate - Here are WA's comments on WOTUS rulemaking.. thanks

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**From:** North, Teri (ECY) **On Behalf Of** Bellon, Maia (ECY)  
**Sent:** Monday, June 19, 2017 6:23 PM  
**To:** [CWAwotus@epa.gov](mailto:CWAwotus@epa.gov)  
**Cc:** Millar, Roger; Sandison, Derek (AGR); Unsworth, James W (DFW); Franz, Hilary (DNR); [hanson.andrew@epa.gov](mailto:hanson.andrew@epa.gov); Clifford, Denise (ECY); Bartlett, Heather (ECY)  
**Subject:** WOTUS Washington State's comments

Attached please find Washington State's comments to the Waters of the United States rule development per the Environmental Protection Agency's request of May 8, 2017.

Thank you for your consideration.

*Teri North, Assistant to the Director  
Department of Ecology  
(360) 407-7009  
[teri.north@ecy.wa.gov](mailto:teri.north@ecy.wa.gov)*

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/19/2017 11:22:12 PM  
**To:** Cory, Katherine [cory.katherine@epa.gov]  
**Subject:** FW: Letter from EPA/Army - WOTUS  
**Attachments:** 2017-06-19 Gov McMaster to EPA.pdf

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**From:** Walker, Trey [mailto:TWalker@governor.sc.gov]  
**Sent:** Monday, June 19, 2017 7:20 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** RE: Letter from EPA/Army - WOTUS

See attached, sent tonight. Thanks!

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**From:** Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
**Sent:** Monday, June 19, 2017 7:13 PM  
**To:** Walker, Trey <TWalker@governor.sc.gov>  
**Subject:** RE: Letter from EPA/Army - WOTUS

Just seeing this. Let me know if you have any more issues.

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**From:** Walker, Trey [mailto:TWalker@governor.sc.gov]  
**Sent:** Monday, June 19, 2017 4:32 PM  
**To:** Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>  
**Cc:** Limehouse, Thomas <TLimehouse@governor.sc.gov>; Plowden, Mark <MPlowden@governor.sc.gov>  
**Subject:** RE: Letter from EPA/Army - WOTUS  
**Importance:** High

South Carolina Governor Henry McMaster is very interested in providing comment on the "Waters of the US" definition. It appears that our office may not be able to finalize our submission prior to today's COB June 19<sup>th</sup> deadline. Has there been any discussion concerning an extension of the comment period? I hope that you may be able to provide guidance on this. Thanks!

With regards,

**Trey Walker**  
*Chief of Staff*  
Office of the Governor  
South Carolina Statehouse  
Columbia, SC 29201  
Work: 803-734-0411  
Mobile: **Ex. 6**  
[twalker@governor.sc.gov](mailto:twalker@governor.sc.gov)

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**From:** Cook-Shyovitz, Becky [<mailto:Cook-Shyovitz.Bekky@epa.gov>]

**Sent:** Tuesday, May 09, 2017 3:01 PM

**To:** Walker, Trey <[TWalker@governor.sc.gov](mailto:TWalker@governor.sc.gov)>

**Subject:** Letter from EPA/Army - WOTUS

Hi Trey,

Please find attached a letter from EPA Administrator Scott Pruitt and Douglas Lamont, senior official performing the duties of the Assistant Secretary of the Army for Civil Works, soliciting your state's input on redefining "Waters of the U.S."

Thanks, and let me know if you have any questions.

Becky Cook-Shyovitz  
Intergovernmental Liaison  
U.S. Environmental Protection Agency  
202-564-5340

Message

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**From:** Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]  
**Sent:** 6/19/2017 10:46:27 PM  
**To:** Cory, Katherine [cory.katherine@epa.gov]  
**Subject:** FW: WOTUS Comments  
**Attachments:** WOTUS 2017-WGA Federalism Comments.Final.pdf

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**From:** Toni Vigil [mailto:tvigil@westgov.org] **On Behalf Of** James Ogsbury  
**Sent:** Monday, June 19, 2017 6:29 PM  
**To:** CWAwotus <CWAwotus@epa.gov>; Hanson, Andrew <Hanson.Andrew@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>; stacey.M.Jensen@usace.army.mil; james.l.covington@usace.army.mil; Bennett, Tate <Bennett.Tate@epa.gov>  
**Cc:** Douglas.L.Hoelscher@who.eop.gov  
**Subject:** WOTUS Comments

Dear Administrator Pruitt and Acting Assistant Secretary Lamont:

Attached please find a letter from our Chair, Governor Steve Bullock (MT) and Vice Chair, Governor Dennis Daugaard (SD), on behalf of Western Governors, regarding WOTUS comments.

If you have any questions or require further information, please do not hesitate to contact me. In the meantime, with warm regards and best wishes, I am

Respectfully,

James D. Ogsbury  
Executive Director

Ph: Ex. 6

**To:** Cory, Katherine[cory.katherine@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Mon 6/19/2017 10:24:39 PM  
**Subject:** FW: SC Governor McMaster WOTUS response to Administrator Pruitt  
[2017-06-19 Gov McMaster to EPA.pdf](#)

**From:** Walker, Trey [mailto:TWalker@governor.sc.gov]  
**Sent:** Monday, June 19, 2017 6:20 PM  
**To:** CWAwotus <CWAwotus@epa.gov>; Hanson, Andrew <Hanson.Andrew@epa.gov>; Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>  
**Cc:** Limehouse, Thomas <TLimehouse@governor.sc.gov>; Plowden, Mark <MPlowden@governor.sc.gov>; Symmes, Brian <BSymmes@governor.sc.gov>  
**Subject:** SC Governor McMaster WOTUS response to Administrator Pruitt  
**Importance:** High

Attached is South Carolina Governor Henry McMaster's response to Administrator Pruitt's request for comment concerning revisions to the Clean Water Rule: Definition of "Waters of the United States."

If you have any questions, please don't hesitate to contact me.

With regards,

**Trey Walker**

*Chief of Staff*

Office of the Governor

South Carolina Statehouse

Columbia, SC 29201

Work: 803-734-0411

Mobile: Personal Phone / Ex. 6

[twalker@governor.sc.gov](mailto:twalker@governor.sc.gov)

Message

---

**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 6/15/2017 3:11:14 PM  
**To:** Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]  
**Subject:** Re: Interagency Task Force on Agriculture and Rural Prosperity

Just went. Tune in on usda website

On Jun 15, 2017, at 11:02 AM, Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov> wrote:

Tate – did you get what you needed? Biggest items in the water and pesticides area (I know you're well aware of both of these already):

- Waters of US –

- <!--[if !supportLists]--><!--[endif]-->The agencies are pursuing a two-step approach:  
Step 1: Formally withdraw the 2015 rule  
Step 2: Initiate a rulemaking process to revise the definition of waters of the U.S.  
consistent with the February 28, 2017, E.O.
- <!--[if !supportLists]--><!--[endif]-->Until a new regulation is in place, the agencies will continue to implement the longstanding regulatory definition, consistent with current agency guidance interpreting that definition in light of the *SWANCC* and *Rapanos* decisions, pursuant to the Sixth Circuit stay.
- <!--[if !supportLists]--><!--[endif]-->The EPA and the Corps submitted a draft Step 1 proposal to OMB on April 28, 2017. The proposal is currently in interagency review.
- <!--[if !supportLists]--><!--[endif]-->The agencies have also initiated a federalism process with states and local governments and consultation with tribes, to inform potential approaches to the second step's definition of "waters of the United States."
- <!--[if !supportLists]--><!--[endif]-->The agency recently sent letters to every governor requesting their views and comments on the best way to define the waters of the U.S.

- PRIA – providing TA to Ag committees and the PRIA coalition

Sven-Erik Kaiser  
U.S. EPA  
Office of Congressional and Intergovernmental Relations  
1200 Pennsylvania Ave., NW (1305A)  
Washington, DC 20460  
202-566-2753

---

**From:** Bennett, Tate  
**Sent:** Tuesday, June 13, 2017 5:05 PM  
**To:** Levine, Carolyn <Levine.Carolyn@epa.gov>; Snyder, Raquel <Snyder.Raquel@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>  
**Cc:** Goodin, John <Goodin.John@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>; Osinski, Michael <Osinski.Michael@epa.gov>; Hanson, Andrew <Hanson.Andrew@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>  
**Subject:** Interagency Task Force on Agriculture and Rural Prosperity

Hi guys! I am serving as proxy for the Interagency Task Force on Agriculture and Rural Prosperity at their next meeting on Thursday AM.

Do you guys mind sending me some bullets on what your programs having been working on to help our friends in rural America over the past few months? Brownfields? Pesticides? Looping Intergov to tally how many WOTUS federalism calls we have taken. Any NPDES permits? Other thoughts and ideas? I'm open to interpretation 😊

Adding John for awareness.

Thank you all!



**To:** Hanson, Andrew[Hanson.Andrew@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/14/2017 5:55:40 PM  
**Subject:** Re: Revised talkers on LGAC/SCAS

Cool.

On Jun 14, 2017, at 1:40 PM, Hanson, Andrew <[Hanson.Andrew@epa.gov](mailto:Hanson.Andrew@epa.gov)> wrote:

Mondo says that Troy, Robin and the team will do a final scrub on Friday.

---

**From:** Bennett, Tate  
**Sent:** Wednesday, June 14, 2017 1:35 PM  
**To:** Hanson, Andrew <[Hanson.Andrew@epa.gov](mailto:Hanson.Andrew@epa.gov)>  
**Subject:** RE: Revised talkers on LGAC/SCAS

This is great. Thank you very much. I have a 2 PM meeting over in the East Building. Any word on whether Troy has reviewed the FR? I'd be happy to go check.

---

**From:** Hanson, Andrew  
**Sent:** Wednesday, June 14, 2017 1:27 PM  
**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Subject:** Revised talkers on LGAC/SCAS

Hi Tate,

These are pretty solid, and I did only the most minor tweaking. (pulled/consolidated a few bullets, added a little red meat on WOTUS)

Speaking of WOTUS, you can transition from this to the WOTUS Federalism outreach overview, or vice-versa, if you like.

**LGAC/SCAS**



**Specifically,**

# Deliberative Process / Ex. 5

**To:** Hanson, Andrew[Hanson.Andrew@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/14/2017 5:35:25 PM  
**Subject:** RE: Revised talkers on LGAC/SCAS

This is great. Thank you very much. I have a 2 PM meeting over in the East Building. Any word on whether Troy has reviewed the FR? I'd be happy to go check.

---

**From:** Hanson, Andrew  
**Sent:** Wednesday, June 14, 2017 1:27 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** Revised talkers on LGAC/SCAS

Hi Tate,

These are pretty solid, and I did only the most minor tweaking. (pulled/consolidated a few bullets, added a little red meat on WOTUS)

Speaking of WOTUS, you can transition from this to the WOTUS Federalism outreach overview, or vice-versa, if you like.

LGAC/SCAS



Specifically,



# **Deliberative Process / Ex. 5**

**To:** Hanson, Andrew[Hanson.Andrew@epa.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/14/2017 3:42:42 PM  
**Subject:** Fwd: Revised LGAC and agriculture  
[LGAC and Agriculture Talking Point \(2\).docx](#)  
[ATT00001.htm](#)

Ugh. I'm the worst explainer

Begin forwarded message:

**From:** "Bowles, Jack" <[Bowles.Jack@epa.gov](mailto:Bowles.Jack@epa.gov)>  
**Date:** June 14, 2017 at 11:28:03 AM EDT  
**To:** "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Cc:** "Eargle, Frances" <[Eargle.Frances@epa.gov](mailto:Eargle.Frances@epa.gov)>, "Matthews, Demond" <[matthews.demond@epa.gov](mailto:matthews.demond@epa.gov)>  
**Subject:** **FW: Revised LGAC and agriculture**

Tate,

Fran and Demond pulled this together per your request for input.

Best,  
Jack

---

**From:** Eargle, Frances  
**Sent:** Wednesday, June 14, 2017 11:01 AM  
**To:** Matthews, Demond <[matthews.demond@epa.gov](mailto:matthews.demond@epa.gov)>; Bowles, Jack <[Bowles.Jack@epa.gov](mailto:Bowles.Jack@epa.gov)>  
**Subject:** Revised LGAC and agriculture

I added a bullet re: membership solicitation soon to come. And revised Bullet #2.

**To:** Leeann.Veatch@ky.gov[Leeann.Veatch@ky.gov];  
charles.snately@ky.gov[charles.snately@ky.gov]  
**From:** Bennett, Tate  
**Sent:** Wed 6/14/2017 12:20:57 AM  
**Subject:** Power point  
federalism FINAL ppt 4-19-17.pdf  
ATT00001.txt

**To:** Veatch, Leeann (Gov Office)[[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)]  
**Cc:** Snavelly, Charles (EEC Cabinet Secretary)[[Charles.Snavely@ky.gov](mailto:Charles.Snavely@ky.gov)]  
**From:** Bennett, Tate  
**Sent:** Wed 6/14/2017 12:20:15 AM  
**Subject:** Re: [SPAM] Tate: Power Point Presentation referenced in May 19 WOTUS letter?

You bet! Standby.

On Jun 13, 2017, at 8:19 PM, Veatch, Leeann (Gov Office) <[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)> wrote:

Hi Tate,

As we are working to finalize our comments on WOTUS due June 19, Secretary Snavelly's called my attention to the fact that the original letter references a power point presentation and says it's attached.

We don't see the pp presentation? Would you mind sending it? It may be relevant to our comments. I'm copying Secretary Snavelly here so hopefully he can have a copy the same time I do.

The lack of power point presentation may only be an issue for KY, I am not sure. There was a snafu when you originally sent me the letter for KY. I mentioned it, and you asked Becky Cook-Shyovitz to send me the letter. Maybe that's where it didn't get attached? Who knows...

Leeann Veatch  
*Office of Governor Matt Bevin*  
202.220.1350

---

**From:** Cook-Shyovitz, Becky [<mailto:Cook-Shyovitz.Bekky@epa.gov>]  
**Sent:** Tuesday, May 09, 2017 1:52 PM  
**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>; Veatch, Leeann (Gov Office) <[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)>  
**Subject:** RE: EMBARGOED until 11 AM EASTERN

Hi Leann,

Here's the letter for Governor Bevin.

Becky

---

**From:** Bennett, Tate  
**Sent:** Tuesday, May 09, 2017 11:07 AM  
**To:** Veatch, Leeann (Gov Office) <[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)>  
**Cc:** Cook-Shyovitz, Becky <[Cook-Shyovitz.Bekky@epa.gov](mailto:Cook-Shyovitz.Bekky@epa.gov)>  
**Subject:** RE: EMBARGOED until 11 AM EASTERN

Becky, mind passing along the KY letter to Leeann when you have it? Gracias

---

**From:** Veatch, Leeann (Gov Office) [<mailto:Leeann.Veatch@ky.gov>]  
**Sent:** Tuesday, May 9, 2017 10:58 AM  
**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Subject:** RE: EMBARGOED until 11 AM EASTERN

Thanks so much, Tate! We'll get right on this.

**Leeann Veatch**  
*Washington DC Representative*  
*Office of Governor Matt Bevin*  
*Office: 202.220.1350*  
[Leeann.Veatch@ky.gov](mailto:Leeann.Veatch@ky.gov)

---

**From:** Bennett, Tate [<mailto:Bennett.Tate@epa.gov>]

**Sent:** Tuesday, May 09, 2017 10:45 AM

**To:** Bennett, Tate

**Cc:** Bowman, Liz

**Subject:** EMBARGOED until 11 AM EASTERN

This morning, Administrator Pruitt is mailing the attached letter to all 50 governors, PR and territories garnering feedback on what a workable definition of WOTUS would look like for your specific state. He requests feedback **be sent to the EPA by June 19<sup>th</sup>**. Knowing of your boss's particular interest in WOTUS, we wanted to give your office advance notice.

CC'd is Liz Bowman in our communications shop who would certainly be happy to work with you on press, statements, etc., should your office be inclined.

Let us know if you have any questions.

Tate

Elizabeth Tate Bennett  
Senior Deputy Associate Administrator  
Congressional and Intergovernmental Affairs  
Office of the Administrator  
U.S. Environmental Protection Agency

**Ex. 6**

**EPA & U.S. ARMY SOLICIT STATE INPUT ON REDEFINING "WATERS OF THE U.S."**  
*"EPA is restoring states' important role in the regulation of water" – Administrator Pruitt*

WASHINGTON – U.S. Environmental Protection Agency and the U.S. Army sent a letter to governors today soliciting input from states on a new definition of protected waters that is in-line with a Supreme Court Justice Antonin Scalia's opinion in the 2006 *Rapanos v. United States* case. Scalia's definition explains that federal oversight should extend to "relatively permanent" waters and wetlands with a "continuous surface connection" to large rivers and streams.

"EPA is restoring states' important role in the regulation of water," **said EPA Administrator Scott Pruitt**. "Like President Trump, I believe that we need to work with our state governments to understand what they think is the best way to protect their waters, and what actions they are already taking to do so. We want to return to a regulatory partnership, rather than regulate by executive fiat."

"The Army, together with the Corps of Engineers, is committed to working closely with and supporting the EPA on these rulemakings. As we go through the rulemaking process, we will continue to make the implementation of the Clean Water Act Section 404 regulatory program as transparent as possible for the regulated public," **said Douglas Lamont, senior official performing the duties of the Assistant Secretary of the Army for Civil Works**.

The Clean Water Act asserts federal control over "traditionally navigable waters" without providing clarity or details about the law's scope. President Donald Trump signed an executive order on February 28, 2017 to direct federal agencies to roll back and replace the Obama Administration's Clean Water Rule – also known



as the “Waters of the U.S.” or WOTUS – to ensure that the nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution.

To meet the objectives of the executive order, federal agencies are following a two-step process that will provide as much certainty as possible, as quickly as possible, to the regulated community and the public during the development of the replacement rule.

The first step is to revise the Code of Federal Regulations to re-codify the definition of “Waters of the United States” which currently governs administration of the *Clean Water Act*, in light of a decision by the U.S. Court of Appeals for the Sixth Circuit staying a definition of “Waters of the United States” promulgated by the agencies in 2015. This action will simply make the text of the Code of Federal Regulations reflect the definition currently in effect under the Sixth Circuit stay. This action, when final, will not change current practice with respect to the how the definition applies, which is consistent with Supreme Court decisions, agency guidance documents, and longstanding practice.

The second step will be a public notice-and-comment rulemaking involving a substantive reevaluation and revision of the definition of “Waters of the U.S.” in accordance with the executive order. The letter sent to governors today is seeking input on the second step of the process.

###

<KY Bevin.pdf>

## Appointment

---

**From:** Richardson, RobinH [Richardson.RobinH@epa.gov]  
**Sent:** 7/14/2017 6:31:56 PM  
**To:** Jackson, Ryan [jackson.ryan@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; 2017HQfirstassistants [2017HQfirstassistants@epa.gov]; 2017Regionfirstassistants [2017Regionfirstassistants@epa.gov]; Acting DRAs [Acting\_DRAs@epa.gov]; Acting DAAs [Acting\_DAAs@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Armstead, John A. [Armstead.John@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Gray, David [gray.david@epa.gov]; Showman, John [Showman.John@epa.gov]; Flournoy, Karen [Flournoy.Karen@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Thomas, Deb [thomas.debrah@epa.gov]; Bohan, Suzanne [bohan.suzanne@epa.gov]; Chu, Ed [Chu.Ed@epa.gov]; Bloom, David [Bloom.David@epa.gov]; Osborne, Howard [Osborne.Howard@epa.gov]; Packard, Elise [Packard.Elise@epa.gov]; Nishida, Jane [Nishida.Jane@epa.gov]; Szaro, Deb [Szaro.Deb@epa.gov]; Lapierre, Kenneth [Lapierre.Kenneth@epa.gov]; Pirzadeh, Michelle [Pirzadeh.Michelle@epa.gov]; Cleland-Hamnett, Wendy [Cleland-Hamnett.Wendy@epa.gov]; Vizian, Donna [Vizian.Donna@epa.gov]; Mugdan, Walter [Mugdan.Walter@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]; Robbins, Chris [Robbins.Chris@epa.gov]; Simon, Harvey [Simon.Harvey@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Kenny, Shannon [Kenny.Shannon@epa.gov]; Newton, Cheryl [Newton.Cheryl@epa.gov]; Fine, Steven [fine.steven@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]  
**CC:** Barbery, Andrea [Barbery.Andrea@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Kling, David [Kling.Dave@epa.gov]; Coleman, Sam [Coleman.Sam@epa.gov]; Breen, Barry [Breen.Barry@epa.gov]; Torma, Tim [Torma.Tim@epa.gov]; Simon, Nigel [Simon.Nigel@epa.gov]; McCabe, Catherine [McCabe.Catherine@epa.gov]; Rodan, Bruce [rodan.bruce@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]; Kavlock, Robert [Kavlock.Robert@epa.gov]; Heard, Anne [Heard.Anne@epa.gov]; Opalski, Dan [Opalski.Dan@epa.gov]; Shaw, Betsy [Shaw.Betsy@epa.gov]; LUEHE, DOUGLAS [luehe.douglas@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]  
**Subject:** 2017 ECOS-EPA Leadership Meeting  
**Attachments:** ECOS-EPA Leadership Agenda\_7-18-17.docx; ECOS and State Attendees\_as of 7-12-17.xlsx; ECOS\_Cooperative Federalism 2.0\_6-12-17.pdf; Memo to ECOS\_Oversight\_8-30-16.pdf; Principles and Best Practices for Oversight\_FINAL\_08 22 2016.docx; Prioritizing the Superfund Program Memo 5-22-2017.pdf; ECOS - Pruitt\_WOTUS\_6-19-17.pdf; ECOS Press Statement on WOTUS Rule WDraw\_6-27-17.pdf  
**Location:** WJC-N 3rd Floor, The Green Room  
**Start:** 7/18/2017 12:30:00 PM  
**End:** 7/18/2017 4:00:00 PM  
**Show Time As:** Tentative

Hi everyone –

The 2017 ECOS-EPA Leadership Meeting provides an opportunity, following Monday's ECOS STEP meeting, for open and robust dialogue on the federal-state relationship with the ECOS Executive Committee. It is expected that as many as 20 to 25 State Environmental Commissioners, Secretaries and Directors plan to attend. An agenda is being finalized and will be available shortly.

If you have any questions or would like additional information please do not hesitate to contact Andrea or me.

**Ct:** Robin Richardson, 202-564-5200

**Staff Ct:** Andrea Barbery, 202-564-1397

Thank you! Robin

**To:** Forsgren, Lee[Forsgren.Lee@epa.gov]  
**Cc:** Shapiro, Mike[Shapiro.Mike@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]  
**From:** Campbell, Ann[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8C25A0C2FB648B6A947694A8492311E-CAMPBELL, ANN]  
**Sent:** Fri 7/7/2017 7:48:07 PM (UTC)  
**Subject:** Fwd: WOTUS-2 materials for Lee

# Deliberative Process / Ex. 5

Lee, based on our discussion yesterday, **Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5** That said, hopefully it helps a bit.

Let me know if you need anything else.  
Ann

Begin forwarded message:

**From:** "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>  
**To:** "Campbell, Ann" <Campbell.Ann@epa.gov>  
**Cc:** "Goodin, John" <Goodin.John@epa.gov>, "Reid, Darren" <Reid.Darren@epa.gov>, "Connors, Sandra" <Connors.Sandra@epa.gov>, "Downing, Donna" <Downing.Donna@epa.gov>  
**Subject:** WOTUS-2 materials for Lee

Hey Ann,  
Here are a variety of materials that have been produced, **Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Thanks,  
Mindy

Mindy Eisenberg  
Acting Director, Oceans, Wetlands & Communities Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

**From:** Downing, Donna  
**Sent:** Friday, July 07, 2017 12:43 PM

**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>

**Cc:** Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>

**Subject:** WOTUS-2 materials responding to Ann's request

Hi Mindy:

# Deliberative Process / Ex. 5

Please let me know if you would like additional materials in response to Ann's request. Thanks!

Donna

Donna Downing  
Jurisdiction Team Leader  
Office of Wetlands, Oceans & Watersheds  
U.S. Environmental Protection Agency  
ph: (202) 566-1367  
[downing.donna@epa.gov](mailto:downing.donna@epa.gov)

USPS Address:  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Delivery Address:  
1301 Constitution Avenue, NW, room 7214-D  
Washington, DC 20004

**To:** Downing, Donna[Downing.Donna@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; McDavit, Michael W.[Mcdavit.Michael@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Wesson, Dolores[Wesson.Dolores@epa.gov]; Chemerys, Ruth[Chemerys.Ruth@epa.gov]; Schaefer-Gomez, Julia[Schaefer-Gomez.Julia@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Cindy Barger[cindy.s.barger.civ@mail.mil]; Jensen, Stacey M CIV USARMY HQDA (US[Stacey.M.Jensen@usace.army.mil]; Moyer, Jennifer A CIV USARMY CEHQ (US[Jennifer.A.Moyer@usace.army.mil];  
David.F.Dale@usace.army.mil[David.F.Dale@usace.army.mil]; Shapiro, Mike[Shapiro.Mike@epa.gov]; Campbell, Ann[Campbell.Ann@epa.gov]; Peck, Gregory[Peck.Gregory@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Borum, Denis[Borum.Denis@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]  
**From:** Christensen, Damaris[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E04107C23C1043D6967754064C477A29-CHRISTENSEN, DAMARIS]  
**Sent:** Tue 6/27/2017 6:06:04 PM (UTC)  
**Subject:** RE: WOTUS-2 Congressional briefing powerpoint  
[WOTUS part 1.congressional briefing.pptx](#)

Hi all. The correct document is attached and linked below. Sorry for the confusion.

Damaris

Nonresponsive Internal URL/ Ex. 6

**From:** Downing, Donna  
**Sent:** Tuesday, June 27, 2017 12:38 PM  
**To:** Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Schaefer-Gomez, Julia <Schaefer-Gomez.Julia@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>; Jensen, Stacey M CIV USARMY HQDA (US <Stacey.M.Jensen@usace.army.mil>; Moyer, Jennifer A CIV USARMY CEHQ (US <Jennifer.A.Moyer@usace.army.mil>; David.F.Dale@usace.army.mil; Shapiro, Mike <Shapiro.Mike@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>  
**Subject:** WOTUS-2 Congressional briefing powerpoint

Hi everybody:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let Damaris and me know if you have additional edits or suggestions. Here is a link to the Sharepoint document:

Nonresponsive Internal URL/ Ex. 6

Thanks!

Donna

Donna Downing  
Jurisdiction Team Leader  
Office of Wetlands, Oceans & Watersheds  
U.S. Environmental Protection Agency  
ph: (202) 566-1367  
[downing.donna@epa.gov](mailto:downing.donna@epa.gov)

USPS Address:  
1200 Pennsylvania Avenue, NW

Washington, DC 20460

Delivery Address:

1301 Constitution Avenue, NW, room 7214-D

Washington, DC 20004

**To:** Forsgren, Lee[Forsgren.Lee@epa.gov]; Campbell, Ann[Campbell.Ann@epa.gov]  
**Cc:** Shapiro, Mike[Shapiro.Mike@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Evalenko, Sandy[Evalenko.Sandy@epa.gov]; Lousberg, Macara[Lousberg.Macara@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Tue 6/27/2017 5:00:46 PM  
**Subject:** RE: WOTUS--All in one place  
[2017-06-27 WOTUS Step 1.docx](#)  
[WOTUS Step 1 Comms Plan 6.23.17 FINAL.docx](#)

As far as I know we are on track for Deliberative Process / Ex. 5. It is my understanding that Liz is still working to nail down whether Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 That decision will determine announcement timing. Here is the final press release and comms plan for awareness. I have no additional comments on the web from either me or from OPA, so we're good to go there. We should get everything teed up in drupal so that we can post the site as soon as we get the greenlight from OPA.

I'll keep you posted as I know more and please let me know if anyone needs anything from me.

Thanks!

-Andrea-

**From:** Forsgren, Lee  
**Sent:** Tuesday, June 27, 2017 8:45 AM  
**To:** Campbell, Ann <Campbell.Ann@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Shapiro, Mike <Shapiro.Mike@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Subject:** RE: WOTUS--All in one place

Ann,

We need to get this right so the program office should do what they need to do but again there is no higher priority in the entire agency. We will go ahead with the comms work and have all of that ready ASAP.



Lee

**From:** Campbell, Ann  
**Sent:** Tuesday, June 27, 2017 8:40 AM  
**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>; Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Subject:** Re: WOTUS--All in one place

For awareness purposes for everyone, I received an email from the program office that they need a little time with the FRN before it gets signed for cleanup purposes/formatting for the Fed Reg.

On Jun 27, 2017, at 8:18 AM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

I just heard from OPA that they're targeting **Deliberative Process / Ex. 5** I will hear more definitively after their 8am meeting at which point I hope to share a tick tock for the roll-out. Note that they are discussing this morning how to **Deliberative Process / Ex. 5** **Deliberative Process / Ex. 5** I will share the final materials as soon as I have them.

Please keep this close hold until I have more definitive timing. Thanks.

---

**From:** Forsgren, Lee  
**Sent:** Monday, June 26, 2017 5:41 PM  
**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>  
**Cc:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Subject:** RE: WOTUS--All in one place

Andrea,

These look fine.

Lee

---

**From:** Drinkard, Andrea  
**Sent:** Monday, June 26, 2017 4:45 PM  
**To:** Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>  
**Cc:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Subject:** FW: WOTUS--All in one place  
**Importance:** High

For awareness, here's what I just shared with Liz. I will keep folks in the loop on any updates I get from her this evening/tomorrow morning.

---

**From:** Drinkard, Andrea  
**Sent:** Monday, June 26, 2017 4:42 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>; Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Subject:** WOTUS--All in one place  
**Importance:** High

Hi Liz/Nancy,

I sent a bunch of emails earlier, so I thought I'd bring everything together in one place. A few things off the bat: I've been asked to confirm that you will be sharing the materials with the Corps/Army. Please also keep me posted on timing, we'll need to know when we can make our OW heads up calls (noted in the comm plan) and when we can go live with web. I will need some warning so that we can get our ducks in a row. And lastly if you can share the final materials that will be helpful for us so that we can make sure all of our messaging is in line with what you end up with.

Thanks!

1. **Press Release** with OW comments in track changes

<< File: WOTUS\_Draft\_PR\_OW\_Edits.docx >>

2. **Comm plan** – This is in track changes so you can see where changes were made since the last time you saw the document. Please note that the Q&As will be included on the website, so they are a public document. Questions 1-6 are already up there and we just made edits to reflect where we are in the process. Question 7 is new, but again it's a status oriented question.

<< File: WOTUS Step 1 Comms Plan 6.23.17\_UPDATED.docx >>

3. **Graphics for social media**

<< File: newwotus8.jpg >> << File: newwotus7.jpg >> << File: newwotus6.jpg >> << File: newwotus4.jpg >>

4. **Web Update** – I should have web language this evening for you to look at, and I will forward it as soon as I get it.

Thanks and let me know what you need from me.

-Andrea-

Andrea Drinkard

Acting Communications Director

EPA Office of Water

Desk: 202.564.1601

Cell: Personal Phone / Ex. 6

**To:** Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]  
**Cc:** Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Goodin, John[Goodin.John@epa.gov]; McDavit, Michael W.[Mcdavit.Michael@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]; Gude, Karen[Gude.Karen@epa.gov]; Connors, Sandra[Connors.Sandra@epa.gov]; Chemerys, Ruth[Chemerys.Ruth@epa.gov]; Kutschenreuter, Kathleen[Kutschenreuter.Kathleen@epa.gov]  
**From:** Shapiro, Mike  
**Sent:** Sun 6/18/2017 3:11:40 PM  
**Subject:** Re: Update on tribal consultation

Thanks Mindy.

Mike

Michael Shapiro  
Deputy Assistant Administrator  
US EPA, Office of Water

On Jun 17, 2017, at 7:08 PM, Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)> wrote:

Mike and Benita,

I wanted to provide you an update on our tribal consultation on the WOTUS, for possible sharing with Sarah. Tribal consultation ends on June 20, and in addition to the two national webinars that you attended, we have held webinars and calls with several Regional Tribal Operations Committees (RTOCs). We have held one staff-to-staff consultation with the Tolowa Dee-ni' Nation, and have two staff-to-staff level consultation meetings scheduled next week with the Snoqualmie Tribe and the Karuk Tribe. As I mentioned at our Wednesday meeting, Rose Kwok and Cindy Barger from the Army led a listening session on the WOTUS rulemaking efforts on June 14 at the National Congress of American Indians (NCAI) conference (Karen Gude and Amy Klein from the Corps, the regulatory tribal liaison, participated via the telephone). It was a well-attended session with several tribal leaders present, as well as other tribal representatives, and there was a lively and spirited discussion that went well over the allotted one hour. Rose committed to sharing the concerns raised at the meeting with her senior management, so we wanted to share them with you.

Notably, several tribes verbally requested an extension of the tribal consultation period and many expressed concerns about our tribal consultation process for this rulemaking (as well as the agency's overall process). Overall, there were some new concerns that were voiced at this session, but many of the comments that the tribes have had on the rulemaking have been consistent regarding the science, their interest in preserving Kennedy, and concerns

that a Scalia-focused rulemaking would not be sufficient to protect waters that are important to their environmental, economic, and cultural resources. In a side conversation - the Menominee Tribe Chairman had questions on Michigan's current state assumption and the documentation to show the rationale for which waters Michigan assumes and which waters the Corps assumes. We told them we would follow-up with Region 5, and the Army/Corps will be doing the same as well.

We are happy to discuss this more with you in detail or answer any questions, but we wanted to pass along this summary. Cindy has sent a similar note to Doug Lamont and Craig Schmauder about the NCAI meeting. Karen has also sent a note to the AIEO regarding the larger concerns about the agency's tribal consultation process, and AIEO will be following up.

#### **Tribal Comments at NCAI Regarding WOTUS Tribal Consultation Process**

- **Request for formal tribal consultation.** The Makah tribe verbally requested a leader to leader consultation – we are **Deliberative Process / Ex. 5**
- **Concerns that even if a tribe does not comment on an action, there is still a federal trust responsibility for agencies to identify the potential impacts of that action on tribes.** Also, commenters felt that the federal trust responsibility required agencies to contact tribes directly to request government-to-government leader consultation. This is related to the concern below about EPA's overall policy, but was also mentioned specifically for this rulemaking.
- **Concerns over the limited timeframe for tribal consultation on WOTUS:** The tribal consultation period extends from April 20 – June 20, 2017, but the tribal consultation letter was not signed and mailed until April 20, and tribes were concerned that starting the consult period before the letters had been received by tribes in effect shortened the amount time a tribe could comment. Additionally, they stated 60 days was too short considering the limited staff that tribes have that are experts on these topics. **Deliberative Process / Ex. 5**
- **Concerns that insufficient information is available about the WOTUS action during the tribal consultation period for tribes to comment on this action and that being provided an opportunity to comment on a proposed/final rule during the public comment period should not be considered tribal consultation.** **Deliberative Process / Ex. 5**

## **Deliberative Process / Ex. 5**

- **Concerns that some tribal leaders did not receive tribal consultation letters for WOTUS and/or that some tribes were unaware of the tribal consultation effort with regard to WOTUS:** Specifically, representatives for two tribes at NCAI, the

Makah and Yakama, indicated that their leadership had not received tribal consultation letters.

Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

- **Questions about whether EPA and Army's tribal consultation policies are consistent:**

○

## Deliberative Process / Ex. 5

- **Concerns over EPA's Tribal Consultation Policy:** There were a number of comments/concerns expressed that tribes disagreed with the agency's tribal consultation policy.

Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

### Tribal Comments at NCAI Regarding WOTUS Rulemaking

- **Concerns about a lack of a federal hook (including Section 106).** Tribes raised concerns with reduced jurisdiction as states don't have the same responsibilities to tribes. While they may have state laws to regulate those waters, they may not consult or consider tribal issues as the federal agency would. Tribes also raised concerns that reduced jurisdiction would limit their ability to seek protection for traditional cultural properties and graves outside tribal lands through federal nexus such as Section 106 of the National Historic Preservation Act (NHPA) and the American Graves Protection and Repatriation Act (AGPRA) that would not apply in waters regulated by the state.
- **Concerns about a Scalia-only approach.** Tribes repeatedly said that they believe a Kennedy approach is more consistent with the decisions of the court case and more consistent with the science. They raised the concern that the focus should be more on protecting the habitat versus just thinking of relatively permanent waters as many of the tribes practices, economy, and cultural connections are to the habitat (e.g. fisheries downstream, medicinal plants in the riparian area or in nearby upland areas that if the hydrologic regime changes could inadvertently affect these areas).

Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

- **Concerns about treaty rights.** Tribes raised concerns that potential changes to the definition of waters of the United States would affect tribal treaty rights.

Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

- Several tribes had prepared comments with their concerns about a new rulemaking that they read aloud during the session. They were encouraged to submit their

comments as written comment during the consultation period.

Mindy Eisenberg

Acting Director, Oceans, Wetlands & Communities Division

Office of Wetlands, Oceans and Watersheds

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW, mailcode 4502T

Washington, DC 20460

(202) 566-1290

[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

**To:** Shapiro, Mike[Shapiro.Mike@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]  
**Cc:** Goodin, John[Goodin.John@epa.gov]; McDavit, Michael W.[Mcdavit.Michael@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]; Gude, Karen[Gude.Karen@epa.gov]; Connors, Sandra[Connors.Sandra@epa.gov]; Chemerys, Ruth[Chemerys.Ruth@epa.gov]; Kutschenreuter, Kathleen[Kutschenreuter.Kathleen@epa.gov]  
**From:** Eisenberg, Mindy  
**Sent:** Sat 6/17/2017 11:08:22 PM  
**Subject:** Update on tribal consultation

Mike and Benita,

I wanted to provide you an update on our tribal consultation on the WOTUS, for possible sharing with Sarah. Tribal consultation ends on June 20, and in addition to the two national webinars that you attended, we have held webinars and calls with several Regional Tribal Operations Committees (RTOCs). We have held one staff-to-staff consultation with the Tolowa Dee-ni' Nation, and have two staff-to-staff level consultation meetings scheduled next week with the Snoqualmie Tribe and the Karuk Tribe. As I mentioned at our Wednesday meeting, Rose Kwok and Cindy Barger from the Army led a listening session on the WOTUS rulemaking efforts on June 14 at the National Congress of American Indians (NCAI) conference (Karen Gude and Amy Klein from the Corps, the regulatory tribal liaison, participated via the telephone). It was a well-attended session with several tribal leaders present, as well as other tribal representatives, and there was a lively and spirited discussion that went well over the allotted one hour. Rose committed to sharing the concerns raised at the meeting with her senior management, so we wanted to share them with you.

Notably, several tribes verbally requested an extension of the tribal consultation period and many expressed concerns about our tribal consultation process for this rulemaking (as well as the agency's overall process). Overall, there were some new concerns that were voiced at this session, but many of the comments that the tribes have had on the rulemaking have been consistent regarding the science, their interest in preserving Kennedy, and concerns that a Scalia-focused rulemaking would not be sufficient to protect waters that are important to their environmental, economic, and cultural resources. In a side conversation - the Menominee Tribe Chairman had questions on Michigan's current state assumption and the documentation to show the rationale for which waters Michigan assumes and which waters the Corps assumes. We told them we would follow-up with Region 5, and the Army/Corps will be doing the same as well.

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**Deliberative Process / Ex. 5**
- **Concerns that insufficient information is available about the WOTUS action during the tribal consultation period for tribes to comment on this action and that being provided an opportunity to comment on a proposed/final rule during the public comment period should not be considered tribal consultation.** **Deliberative Process / Ex. 5**

## **Deliberative Process / Ex. 5**

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## **Deliberative Process / Ex. 5**

- **Questions about whether EPA and Army's tribal consultation policies are consistent:**

## **Deliberative Process / Ex. 5**

- **Concerns over EPA's Tribal Consultation Policy:** There were a number of comments/concerns expressed that tribes disagreed with the agency's tribal consultation policy. **Deliberative Process / Ex. 5**

## **Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

## Tribal Comments at NCAI Regarding WOTUS Rulemaking

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Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

- Several tribes had prepared comments with their concerns about a new rulemaking that they read aloud during the session. They were encouraged to submit their comments as written comment during the consultation period.

Mindy Eisenberg

Acting Director, Oceans, Wetlands & Communities Division

Office of Wetlands, Oceans and Watersheds

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1200 Pennsylvania Ave., NW, mailcode 4502T

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(202) 566-1290

[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Campbell, Ann  
**To:** Hannon, Arnita  
**CC:** Shapiro, Mike; Best-Wong, Benita; Goodin, John; Eisenberg, Mindy; Threet, Derek  
**Sent:** 6/15/2017 6:48:47 PM  
**Subject:** FW: Upcoming US Conference of Mayors Engagement with Mayors Appearance  
**Attachments:** Bennet TPs USCM 6-23-17.docx

Arnita, please find attached the currently proposed TPs for next week's USCM engagement. As you know, this is a fast moving issue and things could change between now and then. If there is a significant development impacting these points, we will update them.

Thanks to the WOTUS folks for pulling these together.

Ann

**From:** Hannon, Arnita  
**Sent:** Monday, June 12, 2017 1:08 PM  
**To:** Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>; Woolford, James <[Woolford.James@epa.gov](mailto:Woolford.James@epa.gov)>; Stalcup, Dana <[Stalcup.Dana@epa.gov](mailto:Stalcup.Dana@epa.gov)>  
**Cc:** Fonseca, Silvina <[Fonseca.Silvina@epa.gov](mailto:Fonseca.Silvina@epa.gov)>; Hannon, Arnita <[Hannon.Arnita@epa.gov](mailto:Hannon.Arnita@epa.gov)>; Kelly, Albert <[kelly.albert@epa.gov](mailto:kelly.albert@epa.gov)>; Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>; Brooks, Becky <[Brooks.Becky@epa.gov](mailto:Brooks.Becky@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Matthews, Demond <[matthews.demond@epa.gov](mailto:matthews.demond@epa.gov)>; Threet, Derek <[Threet.Derek@epa.gov](mailto:Threet.Derek@epa.gov)>  
**Subject:** Upcoming US Conference of Mayors Engagement with Mayors Appearance

Hi All-

Our DAA, Tate Bennett, is set to meet with a group of 10 – 15 mayors for Engagement, Updates, Dialogue, on Friday, June 23, in Miami Beach, FL during the USCM's 85<sup>th</sup> Annual Meeting. This is a 2 part hour: [Part 1: WOTUS Updates \(2:30 – 3:00 pm\)](#); [Part 2: Superfund Updates \(3:00 – 3:30 pm\)](#). Tate will [provide updates](#) on EPA's latest actions in both of these priority areas. She will [hear feedback from the mayors](#) on how they believe they can best engage and partner with EPA, and what EPA's actions mean for their communities.

The audience for Part I (WOTUS) will likely comprise Mayors who serve on the Mayors Water Council (Co-Chairs, Mayors Joy Cooper, Hallandale Beach, FL, and Joy Techel, Napa, CA). For Part 2 (Superfund Updates), mayors who serve on the Environment Committee are expected (Chair, Mayor Greg Stanton, Phoenix, AZ; Vice Chair, Mayor Bryan K. Barnett, Rochester Hills, MI). However, mayors outside of these committees will also be invited. [Will share a list once confirmed.](#)

Might you all [provide some brief "top line messages," and updates for Tate's briefing packet by Thursday 6/15?](#) I am putting that package together. And if you need to send me elsewhere with this request, just tell me who to hit and, as you know, I will!

Thanks very much as always!

Arnita

M. Arnita Hannon Christmon  
Intergovernmental Liaison  
Office of Congressional and Intergovernmental Relations  
US EPA  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460  
202.564.3704 (O)

Personal Phone / Ex. 6

202.501.1545 (Fax)  
[hannon.arnita@epa.gov](mailto:hannon.arnita@epa.gov)

---

**From:** Campbell, Ann  
**To:** Shapiro, Mike  
**CC:** Best-Wong, Benita  
**Sent:** 6/15/2017 4:47:35 PM  
**Subject:** FOR YOUR REVIEW: WOTUS TPs for Upcoming US Conference of Mayors Engagement  
**Attachments:** Bennet TPs USCM 6-23-17.docx

Tate Bennett, is set to meet with a group of 10 – 15 mayors for Engagement, Updates, Dialogue, on Friday, June 23, in Miami Beach, FL during the USCM's 85<sup>th</sup> Annual Meeting. OCIR requested that OWOW provide TPs for Tate by today. I thought you might want a quick opportunity to review prior to sending these on. I took a quick look and they seem ok to me. Please let me know if you have any questions or revisions.

Ann

**From:** Hannon, Arnita  
**Sent:** Monday, June 12, 2017 1:08 PM  
**To:** Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>; Woolford, James <[Woolford.James@epa.gov](mailto:Woolford.James@epa.gov)>; Stalcup, Dana <[Stalcup.Dana@epa.gov](mailto:Stalcup.Dana@epa.gov)>  
**Cc:** Fonseca, Silvina <[Fonseca.Silvina@epa.gov](mailto:Fonseca.Silvina@epa.gov)>; Hannon, Arnita <[Hannon.Arnita@epa.gov](mailto:Hannon.Arnita@epa.gov)>; Kelly, Albert <[kelly.albert@epa.gov](mailto:kelly.albert@epa.gov)>; Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>; Brooks, Becky <[Brooks.Becky@epa.gov](mailto:Brooks.Becky@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Matthews, Demond <[matthews.demond@epa.gov](mailto:matthews.demond@epa.gov)>; Threet, Derek <[Threet.Derek@epa.gov](mailto:Threet.Derek@epa.gov)>  
**Subject:** Upcoming US Conference of Mayors Engagement with Mayors Appearance

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Might you all provide some brief "top line messages," and updates for Tate's briefing packet by Thursday 6/15? I am putting that package together. And if you need to send me elsewhere with this request, just tell me who to hit and, as you know, I will!

Thanks very much as always!

Arnita

M. Arnita Hannon Christmon  
Intergovernmental Liaison  
Office of Congressional and Intergovernmental Relations  
US EPA  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460  
202.564.3704 (O)

**Personal Phone / Ex. 6**

**Personal Phone / Ex. 6**

202.501.1545 (Fax)

[hannon.arnita@epa.gov](mailto:hannon.arnita@epa.gov)

**To:** Penman, Crystal[Penman.Crystal@epa.gov]  
**From:** Best-Wong, Benita[o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6ee79b3d0fc0429b99f2c05481b0b957-bbestwon]  
**Sent:** Tue 6/27/2017 3:40:13 PM (UTC)  
**Subject:** Fwd: WOTUS ready for upload  
[WOTUS Draft Proposed EA \(OMB 06-27-17\) \(002\).docx](#)  
[ATT00001.htm](#)  
[WOTUS Draft Proposed Rule \(OMB 06-27-17\).docx](#)  
[ATT00002.htm](#)

## Deliberative Process / Ex. 5

Thanks

Sent from my iPhone

Begin forwarded message:

**From:** "Goodin, John" <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Date:** June 27, 2017 at 9:58:29 AM EDT  
**To:** "Shapiro, Mike" <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>, "Best-Wong, Benita" <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>, "Peck, Gregory" <[Peck.Gregory@epa.gov](mailto:Peck.Gregory@epa.gov)>, "Greenwalt, Sarah" <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>, "Forsgren, Lee" <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>  
**Cc:** "Eisenberg, Mindy" <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>, "Campbell, Ann" <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>, "Connors, Sandra" <[Connors.Sandra@epa.gov](mailto:Connors.Sandra@epa.gov)>  
**Subject:** WOTUS ready for upload

Status update...

Sent from my iPhone

Begin forwarded message:

**From:** "Eisenberg, Mindy" <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Date:** June 27, 2017 at 9:22:30 AM EDT  
**To:** "Owens, Nicole" <[Owens.Nicole@epa.gov](mailto:Owens.Nicole@epa.gov)>  
**Cc:** "Rees, Sarah" <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>, "Nurse, Leanne" <[Nurse.Leanne@epa.gov](mailto:Nurse.Leanne@epa.gov)>, "Nickerson, William" <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>, "Curry, Bridgid" <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>, "Thomas, Elizabeth" <[Thomas.Elizabeth@epa.gov](mailto:Thomas.Elizabeth@epa.gov)>, "Marten, Alex" <[Marten.Alex@epa.gov](mailto:Marten.Alex@epa.gov)>, "Wehling, Carrie" <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>, Cindy Barger <[cindy.s.barger.civ@mail.mil](mailto:cindy.s.barger.civ@mail.mil)>, "Jennifer.A.Moyer@usace.army.mil" <[Jennifer.A.Moyer@usace.army.mil](mailto:Jennifer.A.Moyer@usace.army.mil)>, "Jensen, Stacey M CIV USARMY HQDA (US)" <[Stacey.M.Jensen@usace.army.mil](mailto:Stacey.M.Jensen@usace.army.mil)>, "Kwok, Rose" <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>, "Downing, Donna" <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>, "Christensen, Damaris" <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>, "Evalenko, Sandy" <[Evalenko.Sandy@epa.gov](mailto:Evalenko.Sandy@epa.gov)>, "Goodin, John" <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Subject:** ready for upload

Hi All,

## Deliberative Process / Ex. 5

Thanks!

Mindy Eisenberg



Acting Director, Oceans, Wetlands & Communities Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Owens, Nicole

**Sent:** Tuesday, June 27, 2017 7:50 AM

**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>

**Cc:** Rees, Sarah <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>; Nurse, Leanne <[Nurse.Leanne@epa.gov](mailto:Nurse.Leanne@epa.gov)>; Nickerson, William <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>; Curry, Bridgid <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>; Thomas, Elizabeth <[Thomas.Elizabeth@epa.gov](mailto:Thomas.Elizabeth@epa.gov)>

**Subject:** WOTUS update?

Hi Mindy –

Given all of the WOTUS traffic last night, I wanted to check-in and get an update, so we're all on the same page and so we can be prepared to help move this along.

I'm only available for a bit longer this morning, but everyone else on this email should be around today.

Nicole

Message

---

**From:** Barbery, Andrea [Barbery.Andrea@epa.gov]  
**Sent:** 6/27/2017 5:30:43 PM  
**To:** Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Borum, Denis [Borum.Denis@epa.gov]; Ostendorf, Jody [ostendorf.jody@epa.gov]; Myers, Bryan [Myers.Bryan@epa.gov]  
**Subject:** FW: WOTUS comment letters from WY & KY  
**Attachments:** Parfitt\_WOTUS\_6-16-17\_AX-17-001-0482.pdf; Snively\_WOTUS\_6-19-17\_AX-17-001-0488.pdf

Hi and FYI — these letters are with OCIR/Intergovernmental in CMS.  
Please let me know if I'm spamming you with state cmsr correspondence!  
It's very important to our DAA so wanted to be sure you were aware.

---

**From:** Barbery, Andrea  
**Sent:** Tuesday, June 27, 2017 1:20 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>  
**Cc:** Bowles, Jack <Bowles.Jack@epa.gov>; Osinski, Michael <Osinski.Michael@epa.gov>  
**Subject:** WOTUS comment letters from WY & KY

Hi Tate —

Attached are WOTUS comment letters from WY DEQ Director Parfitt and KY Energy & Environment Cabinet Secretary Snively.

Preston, would you kindly print these and put them in Tate's inbox?

We have a number of letters building up in OCIR's inbox. Would be good to sit down with you, Tate, at some point this week, and go over how you'd like to handle the responses.

Thanks,  
Andrea Barbery  
202-564-1397

**To:** Flahive, Katie[Flahive.Katie@epa.gov]  
**From:** Borum, Denis  
**Sent:** Mon 7/10/2017 8:39:40 PM  
**Subject:** Ugh! One More Comment  
RTC OW DRAFT RTC File 07 07 17+ [REDACTED] DOCX

Hi, Katie –

OMB sent the attached – only need to look at page 101 for a one-off via Deliberative Process / Ex. 5 OMB promised no more! I hate to send around to everyone, if it's really easy. That said, please take a look and let me know. I'll re-send so all can see if that seems better. Thanks,  
Katie

Denis

Denis R. Borum  
Congressional Liaison Specialist  
Office of Congressional and Intergovernmental Relations  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (MC-1301A)  
Washington, D.C. 20460  
(202) 564-4836 (phone)  
(202) 501-1549 (fax)  
[borum.denis@epa.gov](mailto:borum.denis@epa.gov) (e-mail)

Message

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**From:** Borum, Denis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F385DC95B8714C7CB74334EED0E1474D-DBORUM]  
**Sent:** 6/26/2017 7:16:23 PM  
**To:** Peck, Gregory [Peck.Gregory@epa.gov]  
**Subject:** Now, Two FYI Letters  
**Attachments:** Draft LaMalfa Letter to EPA Prior Converted Cropland.pdf; FL DEP - WOTUS\_6-19-17\_AX-17-001-0439.pdf

Hey, Greg –

In addition to the draft letter from LaMalfa (PCC), I'm including another from FL DEP on WOTUS definition. Happy Monday!

Denis

Denis R. Borum  
Congressional Liaison Specialist  
Office of Congressional and Intergovernmental Relations  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (MC-1301A)  
Washington, D.C. 20460  
(202) 564-4836 (phone)  
(202) 501-1549 (fax)  
[borum.denis@epa.gov](mailto:borum.denis@epa.gov) (e-mail)

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]  
**Cc:** Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Greaves, Holly  
**Sent:** Tue 6/20/2017 9:27:03 PM  
**Subject:** Prep for Senate Hearing  
[BLUE BOOK, Big Book.zip](#)  
[New Source Performance Standards Wood Stoves.docx](#)  
[2015 Delay Implementation of the 2015 Ozone Standards.docx](#)  
[METHANE OIL AND GAS RULE.docx](#)  
[War on Coal.docx](#)  
[California Waiver.docx](#)

Good afternoon,

We currently have time blocked on the Administrator's schedule Thursday morning and Monday (all day) for hearing prep. Below are the list of topics, crosswalked to the fact sheet in the big book with the blue cover, that OCIR has identified as relevant to the committee members.

Please be prepared to brief the Administrator on the subjects in your area of responsibility (i.e. air, water, land, chemicals). We will be sensitive to everyone's schedule and try to call you to his office only when you are needed, as we did last week.

Note – there were new fact sheets created for the blue books and if you are missing a page referenced in the list below, please refer to the soft copies, attached.

Thanks,

Holly

**Senate Appropriations  
Subcommittee on Interior, Environment & Related Agencies**

Air

**Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**

Water

# **Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**

Land

## **Deliberative Process / Ex. 5**

ORD

## **Deliberative Process / Ex. 5**

•□□□□□□□

OCSP

## **Deliberative Process / Ex. 5**

OITA

## **Deliberative Process / Ex. 5**

-

OECA

## **Deliberative Process / Ex. 5**

Other

## **Deliberative Process / Ex. 5**



**To:** Arbab, John (ENRD)[John.Arbab@usdoj.gov]; Olson, Carl F CIV USARMY CEPOA (US)[Carl.F.Olson@usace.army.mil]; Inkelas, Daniel CIV USARMY CEHQ (US)[Daniel.Inkelas@usace.army.mil]; Uholik, Brian (ENRD)[Brian.Uholik@usdoj.gov]  
**Cc:** Cherry, Andrew[Cherry.Andrew@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]  
**From:** Szalay, Endre[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]  
**Sent:** Fri 6/30/2017 7:41:39 PM (UTC)  
**Subject:** RE: Universal Welding v Army Corps (CA 9) -- plaintiff's Rule 28(j) letter  
APPELLATE-#355027-v1-Universal Welding -- plaintiff s Rule 28(j) letter.pdf

Thanks for sharing, John.

## Attorney Client / Deliberative Process / Ex. 5

copying my EPA HQ colleagues.

Endre Szalay  
US EPA Region 10  
Office of Regional Counsel  
206-553-1073

-----Original Message-----

From: Arbab, John (ENRD) [mailto:John.Arbab@usdoj.gov]  
Sent: Friday, June 30, 2017 12:02 PM  
To: Olson, Carl F CIV USARMY CEPOA (US) <Carl.F.Olson@usace.army.mil>; Inkelas, Daniel CIV USARMY CEHQ (US) <Daniel.Inkelas@usace.army.mil>; Uholik, Brian (ENRD) <Brian.Uholik@usdoj.gov>  
Cc: Szalay, Endre <Szalay.Endre@epa.gov>  
Subject: RE: Universal Welding v Army Corps (CA 9) -- plaintiff's Rule 28(j) letter

## Attorney Client / Deliberative Process / Ex. 5

John E. Arbab  
U.S. Department of Justice  
Environment & Natural Resources Division  
Appellate Section  
P.O. Box 7415  
Washington, DC 20044  
(202) 514-4046 (telephone)  
(202) 353-1873 (fax)  
[john.arbab@usdoj.gov](mailto:john.arbab@usdoj.gov)

**To:** Saltman, Tamara[Saltman.Tamara@epa.gov]; Mroz, Jessica[mroz.jessica@epa.gov]; Lubetsky, Jonathan[Lubetsky.Jonathan@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Terry, Sara[Terry.Sara@epa.gov]; 'Lora Strine'[Strine.Lora@epa.gov]; Clarke, Deirdre[clarke.deirdre@epa.gov]; Krieger, Jackie[Krieger.Jackie@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Burch, Julia[Burch.Julia@epa.gov]; LaRue, Steven[LaRue.Steven@epa.gov]; Wolfe, Michael[Wolfe.Michael@epa.gov]; Walters, Margaret[Walters.Margaret@epa.gov]; Hyde, Courtney[Hyde.Courtney@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]  
**Cc:** Thundiyil, Karen[Thundiyil.Karen@epa.gov]; Haman, Patricia[Haman.Patricia@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]  
**From:** Davis, Matthew  
**Sent:** Thur 6/29/2017 7:06:00 PM  
**Subject:** CQ draft transcript from SAC hearing (attached) RE: Notes/transcript-ish on OAR-related items from Senate Appropriations EPA FY18  
[Transcript SAC EPA FY18 Budget 6-27-17.docx](#)

I haven't had time to highlight the relevant air sections, but you can use my notes (still below) as a guide.

-Matthew

**From:** Davis, Matthew  
**Sent:** Wednesday, June 28, 2017 6:02 PM  
**To:** Saltman, Tamara <Saltman.Tamara@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Terry, Sara <Terry.Sara@epa.gov>; Lora Strine <Strine.Lora@epa.gov>; Clarke, Deirdre <clarke.deirdre@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; LaRue, Steven <LaRue.Steven@epa.gov>; Wolfe, Michael <Wolfe.Michael@epa.gov>; Walters, Margaret <Walters.Margaret@epa.gov>; Hyde, Courtney <Hyde.Courtney@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Cyran, Carissa <Cyran.Carissa@epa.gov>  
**Cc:** Thundiyil, Karen <Thundiyil.Karen@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Knapp, Kristien <Knapp.Kristien@epa.gov>  
**Subject:** Notes/transcript-ish on OAR-related items from Senate Appropriations EPA FY18

All,

I'm sending this in case it's helpful- my notes and attempt at transcript-type detail on portions of the Senate Appropriations FY18 budget hearing yesterday on items I thought were OAR related. Apologies that I ran out of time to get to the last couple of exchanges with Sen. Udall and Administrator Pruitt on RFS and oil and gas. My colleague's quick summary of those portions is at the end.

-Matthew

Notes and draft transcript-type notes on OAR-related topics from Senate Appropriations hearing 6/27/17:

Opening Statements

Chair Murkowski:

-She'd like to continue a meeting ongoing on "Parochial issues" she looks forward to working with the Administrator on: PM2.5, CISWI

Ranking Member Udall:

-eliminating Energy Star is a mistake, it and WaterSense have saved consumers nearly a trillion dollars on their utility bills

-cutting state funding 45% would make it even more challenging, particularly as you suggest "returning programs to the state"

-mentioned states running the radon programs, monitoring and reducing ozone pollution, using grants for DERA, targeted airsheds

-cuts all the various climate programs, fuels, emissions, science, etc.

-withdrawing from the Paris Agreement is misguided, can't afford to stick our head in the sand, we shouldn't walk away from our global commitments

-core responsibilities: protect public health and maintain clean air and clean water

Ranking Member Leahy:

-we need to maintain our support of clean air, particularly in VT where they get pollution from out of state disregarding borders

-important to maintain clean energy support

-climate: major need to work on this issue, it is part of an overall disregarding of science, pages being deleted, scientists being fired, ignoring compelling scientific evidence

-with your decision on the Paris Climate agreement, you're leading us away from the rest of the world on climate change

-we have been the global leader on environment and climate change, and Leahy liked that, but now China is coming in to fill that void

Administrator Pruitt:

3 priorities/focus of EPA:

-rule of law, we will no longer reimagine our statutory authority

-regulation through litigation we will no longer pursue at EPA

-reinforcing the importance of cooperative federalism

-clean air is the heart of public health, we have made tremendous progress, and attainment will be a priority of EPA, work to meet the NAAQS

-regulatory certainty is important for businesses we work with, and important for economic progress

### Q&As

Murkowski: You talk about lands, cleaning up lands, and holding those accountable who contaminate our lands and this is important to the people of AK...

Pruitt: There are lands across the country, some are interagency with department of defense and department of energy [assuming he's talking about nuclear waste issues/areas]. I will be working across departments to make sure we clean up these sites from around the country.

Murkowski: I and my colleagues say clean air, clean water, you say clean air clean water, but we may not agree on the budget. Your priorities, can you outline?

Pruitt: we need to make more decisions, like in West Lake in Missouri, decision languishing over years, no urgency in making a decision. NAAQS reduction, because 40% of people still live in counties that don't meet the standard. And we have a backlog. Over 700 SIPs have been submitted to the agency and we haven't responded and that is not acceptable. There is a lot of improvements we can make through better management and leadership. And money matters, yes, but in many instances, it has been a lack of decisions and management and leadership that I will improve.

Udall: Can you confirm you will respond to correspondence and information requested to